

**Collector of Central Excise Vs. Tigrania Metal and Steel Inds.**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Feb-12-1998

**Reported in :** (1998)(101)ELT710TriDel

**Appellant :** Collector of Central Excise

**Respondent :** Tigrania Metal and Steel Inds.

**Judgement :**

1. Respondent is absent in spite of notice of hearing. We have heard Shri M. Ali, JDR and perused the papers.

2. Respondent, engaged in the manufacture of metal rolls for metal rolling mill, filed classification list No. 145/89 proposing classification under Chapter sub-heading 8455.00 and claiming benefit of full exemption under Notification No. 281/86. The Assistant Collector passed Order-in-Original No. 64/89 approving the classification but denying the benefit of exemption. Demand notice was also issued in respect of the period May, 1989 to September, 1989 and demand was ultimately confirmed by the Assistant Collector by Order-in-Original No. 20/90. The assessee challenged both orders by way of two appeals before the Collector (Appeals) who passed a common order confirming the denial of benefit of the notification but directing that cost of grooving operation on the metal materials would be the assessable value and the cost of metal materials would not be included in the assessable value. This common order is challenged by the Revenue. Revenue has sought restoration of only Order-in-Original No.20/90 confirming the demand.

3. The order passed by the lower authorities do not indicate that the respondent had pleaded that the assessable value should be equal to the cost of grooving and should not include the cost of metal material.

Appellate authority has not indicated the reason for arriving at such a conclusion. This is not a case where the respondent receives metal materials as a job worker, does job work on payment of job charges and returns the product to the original supplier. We therefore hold that the order passed by the Collector (Appeals) that assessable value shall be equal to the cost of grooving operation and shall not include the cost of metal materials under Rule 6(b)(ii) of the Central Excise (Valuation) Rules, 1975 is not sustainable. Accordingly we set aside that part of the order passed by the Collector (Appeals) and allow the appeal. Order-in-Original No. 20/90 passed by the Assistant Collector is restored.

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