

Cce Vs. R.K. Dutt Concerns

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-09-1998

Reported in : (1998)(76)LC426Tri(Mum.)bai

Judge : U Bhat, S T K.

Appellant : Cce

Respondent : R.K. Dutt Concerns

Judgement :

1. Respondent is absent in spite of notice of hearing. There is no representation and no request for adjournment. We have heard Shri M.Ali, JDR appearing for the appellant-Collector.

2. Respondent, engaged in the manufacture of goods covered by Chapters 73, 84 and 90, was availing the benefit of SSI exemption notification No. 175/86, according to which total exemption was available for clearances up to the limit of Rs. 30 lacs and subject to the above exemption goods falling under each of the Chapters had individual limit of Rs. 15 lacs. When the value of clearances of Chapter 90 goods crossed Rs. 15 lacs, the respondent started paying duty on further clearances of such goods. When the value of total clearances of all the goods covered by the three Chapters crossed Rs. 30 lacs, respondent started paying duty on further clearances. Respondent subsequently filed refund claim stating that even though the value of total clearances exceeded Rs. 30 lacs in so far as goods covered by Chapters 73 and 84 were concerned, since the value of

clearances of goods under each of the Chapters had not exceeded Rs. 15 lacs, the respondent was entitled to the benefit of exemption regarding such goods. Assistant Collector rejected the claim. However, the Collector (Appeals) held the refund claim admissible and allowed refund. The Department being aggrieved has filed this appeal.

3. A Larger Bench of the Tribunal in Ramakrishna Engg. Works has held that the limit of value of clearances of all the goods together would prevail over the limit prescribed for the goods falling under each Chapter. In this view, the order passed by the Collector (Appeals) is set aside and the order passed by the Assistant Collector is restored.

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