Collector of Customs and Excise Vs. Amrit Biscuits (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-20-1998

Reported in : (1998)(103)ELT511TriDel

Appellant : Collector of Customs and Excise

Respondent : Amrit Biscuits (P) Ltd.

Judgement :

1. The appellants Revenue have come in appeal against the order passed by the Collector of Central Excise (Appeals) Jaipur wherein the common Order No. 121-C.E./JPR/88, dated 1-8-1988, he had observed as under : "Though a personal hearing was granted to the appellants on 28-7-1988, no appearance was caused.

2. This is an appeal filed by M/s. Amrit Biscuit Pvt. Ltd., Jaipur against the classification list 18/83 approved by the Assistant Collector Central Excise, Jaipur wherein the Assistant Collector allowed exemption under Notification No. 84/80 w.e.f. 22-1-1983, instead of 16-9-1982 as claimed by the appellants. On consideration of the facts of the case, I observe that the appellants filed a revised classification list only on 10-1-1983, but claimed approval with retrospective effect from 16-9-1982. I also observe that the appellants informed the Range officer Jaipur of their intention to avail the exemption under Notification No. 80/80 only on 6-12-1982.

Obviously, the appellants were not eligible to avail the exemption with retrospective effect from 16-9-1982. At best they could have claimed exemption only from 6-12-1982 on which date they had furnished an intimation and required declaration to the range officer. The impugned order of the Assistant Collector, accordingly approval to the classification list, needs modification in the light of my above observations.

3. In the result, the appeals is partly allowed with consequential benefit, if any, to the appellants." 2. We find that the appellate authority had made certain observations but had not passed any final order in the matter. He had observed that "at best they could have claimed exemption only from 6-12-1982 on which date they had furnished an intimation and filed declaration to the Range Superintendent." This is not in the nature of final order.

3. The respondents M/s. Amrit Biscuit Pvt. Ltd. are not represented.

The notice for today's hearing has been received back with the remarks 'left'.

4. After hearing Shri Satnam Singh, SDR, we consider that as no final view has been taken by the appellate authority and he had observed that the classification list needed modification on claiming exemption from 6-12-1982, we consider that there was no valid ground for filing the present appeal.

5. Taking into account the observations of the appellate authority we do not find any merit in this appeal filed by the revenue and the same is rejected.