

Omega Electronics Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-24-1998

Reported in : (1999)(105)ELT250TriDel

Appellant : Omega Electronics

Respondent : Collector of Central Excise

Judgement :

1. This is an appeal filed by the Appellants against the impugned order passed by the Collector (Appeals), New Delhi.
2. The Assistant Collector has accepted the plea of the Appellants in classifying the items under Tariff Item 68 observing that the goods were not Wireless set. Not being satisfied with the findings of the Assistant Collector, Department filed an appeal before the Collector (Appeals). Collector (Appeals) held that items were classifiable under Tariff Item No. 33 as Radio and Transistor sets.
3. Arguing on behalf of the Appellants the Id. Consultant submits that apart from the merits of the case the orders passed by the respective authorities below are not sustainable in the eye of law and because of the fact that Department has invoked larger period and the matter was adjudicated by the Assistant Collector. After the amendment to Section 11A in 1985 Assistant Collector was not competent to adjudicate the matter as the period is involved beyond the period of six months on the ground suppression of facts. He submits that the party has taken specific plea before the Assistant Collector. The Assistant Collector did not

go into that aspect since he decided the issue on merits in favour of the party. The Collector (Appeals) neither has considered nor given any findings with reference to the time bar issue.

4. Arguing on behalf of the Revenue the Id. DR submits that since the period relates to prior to 1985 the Asstt. Collector has adjudicated the matter.

5. We have considered the matter. It is settled position now that after 1985 the Assistant Collector was not empowered to adjudicate the matter beyond the period of six months involving the suppression of facts. In this case the matter is adjudicated by the Assistant Collector on 24-6-1988 and accordingly the order is not sustainable as it was rightly pointed out by the Id. Consultant for the Assessee. On this ground alone the impugned order is liable to be set aside. Accordingly appeal is allowed.

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