**Commissioner of Central Excise Vs. Argus Indo (P) Ltd.**

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**SooperKanoon Citation** : sooperkanoon.com/13610

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

**Decided On :** Jun-08-1998

**Reported in** : (1999)(114)ELT352Tri(Mum.)bai

**Appellant** : Commissioner of Central Excise

**Respondent** : Argus Indo (P) Ltd.

**Judgement** :
1. The respondents manufacture parts of transformers they filed classification list for the parts under sub-heading 8504.00 of the Central Excise Tariff Act, and claimed exemption under Notification No.160/86 this notification grants exemption inter alia at Serial No. 2 thereof to goods falling under Heading 85.04 other than transformers and chokes for fluorescent tubes. The Jurisdicrional Assistant Commissioner of Central Excise by an order dated 29-5-1992 held that parts of transformer are not eligible for the benefit under the Notification, for the reason that transformers are excluded from the scope of the exemption under Heading 85.04. The Assistant Commissioner relied upon Note 2(b) of Section XVI which says that other parts if suitable for use solely or principally with the particular kind of machine or with a number of machines of the same heading are to be classified with the machine of that kind. Hence as the parts of transformer are classified under the same Heading 85.04, as the transformer Assistant Commissioner held that the parts also are excluded from the exemption along with the transformer. The Commissioner (Appeals) set aside the Assistant Commissioner order in the impugned order and it was noted by that authority that when the Notification

specifically mentioned transformer it cannot be construed to mean that transformer include parts thereof also.

2. Shri S.V. Singh the ld. JDR referred to the grounds of appeal and emphasised that by application of the Section Note 2(b) to Section XVI parts of transformers fall for classification under Heading 85.04, as the transformer themselves and consequently will go out of the scope of exemption.

3. Shri N.M. Patankar the ld. Advocate contended that the wording of the notification have to be strictly construed and according to the Notification only complete transformers are excluded and not parts thereof although they may fall for classification under the same heading as the transformers.

4. On a careful consideration of the submissions made, we are of the view that if it was the intention of the Notification issuing authorities to exclude the parts of transformer from the ambit of the exemption they would have been specifically mentioned for such exclusion. This conclusion gets supported by a perusal of the other serial numbers in the Notification were articles which are in the nature of parts are specifically mentioned for exclusion at Serial No.2 and there are other entries at Serial Nos. 4 & 5 where parts are specifically excluded. In these circumstances we do not see any reasons to interfere with the finding of the Commissioner (Appeals). The appeal is rejected.