Vanaz Engineers Ltd. Vs. Commissioner of Central Excise

Vanaz Engineers Ltd. Vs. Commissioner of Central Excise

SooperKanoon Citation : sooperkanoon.com/13871

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jul-15-1998

Reported in : (1999)(108)ELT725Tri(Mum.)bai

Appellant : Vanaz Engineers Ltd.

Respondent : Commissioner of Central Excise

Judgement :

1. None is present for the appellants despite notice. In this case, the appellants were granted refund of Rs. 5,481/- under Rule 173L by the Jurisdictional Asstt, Commissioner in respect of certain quantity of CO2 Cylinder Valves which were returned to their factory under Rule 173L. The appellants after receiving back and subjecting the goods to further process cleared the goods on payment of duty. They filed refund claim under Rule 173L which was granted by the Asstt. Commissioner.

This order of the Asset. Commissioner was sought to be reviewed by the jurisdictional Commissioner of Central Excise and the appeal so filed by the Department was allowed by the Commissioner of Central Excise, Pune in the impugned order by setting aside the Asstt. Commissioner's order granting refund.

2. Heard Shri S.V. Singh, the ld. DR. It is seen that Commissioner (Appeals) has found that the respondents before him have failed to establish that the goods were brought back for retesting. These were simply rejected goods which should not have been brought back within the factory and in such case the provisions of Rule

173L are not applicable. The appellants in the appeal memorandum has stated that the nature of their product is such that the inspecting thereof would require dismantling certain valves and the process of dismantling, reassembling, removing original marks and making fresh marks will entitle to the appellants to claim the facility under Rule 173L in respect of such product returned to their factory. However, it is seen that in the order of the Asstt. Commissioner, it is recorded that the goods were received back since the party has not taken the material.

There is no reference to the reason of retesting. In such circumstances, the finding of the Commissioner (Appeals) that the appellants have failed to substantiate their eligibility to refund under Rule 173L is sustainable and the appeal is accordingly dismissed.