

Partap Electricals Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-31-1998

Reported in : (1999)(106)ELT384TriDel

Appellant : Partap Electricals

Respondent : Collector of Central Excise

Judgement :

1. The dispute in the instant case is with regard to eligibility of small scale exemption in respect of Guards plate for fans manufactured by the appellants. Arguing the appeal, Shri Devnath submitted that the item in question is name plate of the buyer. Sample of the product was also shown. It is a metal circle at the middle of which name "Cinni" "Sigra" is written. The exemption has been denied on the ground that the brand name/trade name of another person has been affixed on the product. It has been held that in view of the affixing of the brand name of another person, the exemption is not available to the appellants under para 7 of Notification No. 175/86. Sri Devnath submitted that the aforesaid order is contrary to clarification of the Board itself as it has been mentioned in C.B.E.C. letter No.345/35/87-TRU, dated 29-10-1987 that metal labels etc. manufactured by the SSI Units will be eligible for exemption under the said notification. Shri Devnath also referred to Circular No. 3/91-CX. 4 issued from F. No. 154/13/90-CX. 4, dated 17-1-1991 which clarifies that name plates for fans will merit classification under Heading 83.10 and will be entitled to benefit of Notification No. 175/86. Shri Devnath also referred to Circular No. 71/71/94-C.E., dated 27-10-1994 of the

Board in this regard. He also mentioned that CEGAT's decision in Model Soap Company v. Commissioner of Central Excise, Calcutta-I, reported in 1998 (24) RLT 628, was given taking into account the Board's circular dated 27-10-1994.

2. Heard Shri Saran, learned SDR who submits that the case may be remanded for reconsideration in the light of the Board's circulars as the circulars are not found to be considered by the lower authorities.

3. We have gone through the records of the case and have considered the submissions made by both the sides. We agree with the learned SDR that the matter is required to be reconsidered by the lower authorities as they have not taken into account the relevant circulars of the Board.

The case is, accordingly, remanded to the Assistant Commissioner for a fresh decision after taking into account the relevant circulars of the Board and the decision of the CEGAT after giving the appellant an opportunity to present their case. Ordered accordingly.

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