

Ess Ess Engineers Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-25-1998

Reported in : (1999)(107)ELT596TriDel

Appellant : Ess Ess Engineers

Respondent : Collector of Central Excise

Judgement :

1. These are five appeals filed by the ESS ESS Engineers and others against the common impugned order involving a common issue and accordingly they are taken together and are being disposed-of by this common order.
2. Arguing for the appellants Shri J.S. Agarwal, learned Counsel submitted that two issues are involved in these cases. Whether party can avail Modvat credit and SSI exemption simultaneously for different products and whether party can avail duty exemption even after crossing the limit of Rs. 15 lakhs on one item and Rs. 30 lakhs on more than one item.
3. He submitted that with reference to the first issue, the Tribunal has been taking the view that any SSI unit can avail Modvat credit and SSI exemption simultaneously in respect of different products and the view taken by the Tribunal in the case of Faridabad Tools Pvt. Ltd. v. Collector of Central Excise reported in 1993 (63) E.L.T. 759 has been upheld by the Supreme Court as reported in Vol. 82 part 3, 15th March, 1996 E.L.T. at page A149.

4. On going through the facts and circumstances of the case, and in view of consistent view of the Tribunal and the view taken by the Tribunal was upheld by the Supreme Court referred to above, we hold that appellant is entitled to avail Modvat credit and SSI exemption simultaneously in respect of different items. As regards the second issue, it was pointed out by Shri S. Nunthuk, learned DR that Larger Bench of the Tribunal in the case of Ramakrishna Engineering Works reported in 1996 (83) E.L.T. 346 held that asses-see is not entitled to exemption in terms of Notification 175/86 since the first clearance exceeded the limit of Rs. 30 lakhs. It was also submitted by him that similar view has been expressed by the Supreme Court in the case of Collector, Central Excise v. Arason & Co. 1997 (91) E.L.T. 251(S.C). In this context Shri J.S. Agarwal submitted that the decision referred to by the DR was with reference to the different Notification but with reference to the very Notification 175/86, the view taken by the Tribunal in the case of Khalsa Pulp & Paper Industries (P) Ltd. v. Collector in the order in CEGAT No. 313/90-C dated 4-4-1990 was upheld by the Supreme Court as reported in 1997 (92) E.L.T. at page A-76 in Court-room highlights. The Tribunal following the earlier decision reported in 1989 (43) E.L.T. 599 with reference to Notification 175/86 held that even a specified goods falling under one of the headings manufactured by the manufacturer exceeds Rs. 15 lakhs, and the value of the first clearances of all other specified excisable goods and having exceeded the 30 lakhs the other goods continue to enjoy the exemption till the aggregate ceiling of Rs. 30 lakhs, exemption for first clearance is reached, had allowed the appeal before it accordingly.

5. Since the view taken by the Tribunal with reference to the Notification 175/86 has been upheld by the Supreme Court, the appellant succeeds on this issue also. Accordingly these appeals are disposed of in the above terms.

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