

Mukund Industries Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-23-1998

Reported in : (1999)(105)ELT678TriDel

Appellant : Mukund Industries

Respondent : Collector of Central Excise

Judgement :

1. Appellants manufactured and cleared "incomplete pumps of handling water". Such "incomplete pump" has been classified by Collector of Central Excise, Pune under Chapter 84.13 as power driven pump relying on Rule 2(a) of Interpretative Rules. However, the appellant's claim for exemption under Notification No. 155/86 was rejected on the ground that the item in question is not "complete pump" in all respects but is "semi-finished" and "incomplete pump".

2. Arguing the appeal, learned Counsel for appellants Shri R. Sudhinder submits that the order is not correct. He submits that the appellant's case is covered by the decision of CEGAT in *Western Refrigeration v. Collector of Customs, Bombay* - 1995 (77) E.L.T. 673 (T) wherein the Tribunal held that understanding of the Tariff entry and the Notification entry should be the same when both are worded alike. Shri Sudhinder also submits that the Supreme Court rejected the appeal of the Government against this decision of the Tribunal 1996 (83) E.L.T.A175.

3. Countering the arguments on behalf of the appellants Shri Nunthuk, Id. DR, submits that the interpretative rules of Tariff are not applicable in respect of

Notification. He also relied upon decision of the CEGAT, BHEL v. Collector of Customs - 1990 (47) E.L.T. 10 (T) wherein the Tribunal held that interpretative rules are inapplicable for interpreting and enlarging the scope of Notifications.

4. We have perused the records and have considered the submissions made by both sides. We find that in the instant case, the Notification as well as the Tariff entry related to pumps. The words used in the Tariff entry as well as in the Notification are alike as in the case of Western Refrigeration. We are therefore, of the opinion that the appellant's case is covered by the decision of the CEGAT in Western Refrigeration case, as upheld by the Supreme Court. No enlargement of the scope of the Notification is being sought. Accordingly, this appeal is allowed with consequential relief to the appellant and the impugned order is set aside. Since the appeal is allowed on this ground, we do not consider it necessary to go into the appellant's submissions on other grounds like eligibility to exemption as a Small Scale Unit.

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