

Roger Traders Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-04-1998

Reported in : (1999)(105)ELT322TriDel

Appellant : Roger Traders

Respondent : Commissioner of Central Excise

Judgement :

1. In this case, a duty demand of Rs. 1,61,049.60 P. has been confirmed on waste and scrap obtained by breaking up of barge under GET sub-heading 7215.00. A penalty of Rs. 15,0007- has also been imposed upon the assesseees.
2. When the case is called, none appears on behalf of the appellants despite notice; hence we have heard Shri R.D. Negi, learned DR and perused the records.
3. The contention of the assessee that the activity of breaking of barge does not amount to manufacture cannot be accepted since prima facie in our view such activity is a process of manufacture. The plea that barges are not ships or boats or floating structure and even if the activity of breaking of barges is held to amount to manufacture, classification of waste and scrap so obtained would not be under Heading 7215 is also prima facie not acceptable.
4. On a consideration of the facts and circumstances, we direct the appellants to deposit a sum of Rs. 75,000/- towards duty and on such deposit, the requirement of pre-deposit of balance duty and penalty is waived and its recovery stayed

during the pendency of the appeal.

Failure to comply with this direction shall result in vacation of stay and rejection of appeal without further notice. Matter to come up for reporting compliance on 26-2-1999.

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