Anand Engineering Co. Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-03-1999

Reported in : (1999)LC218Tri(Delhi)

Appellant : Anand Engineering Co.

Respondent : Collector of Central Excise

Judgement :
1. In these cases, a duty demand of Rs. 91,574.59 has been confirmed and a penalty of Rs. 10,000/- has been imposed on the appellants herein on the gound that the clearance of both units are required to be clubbed and on doing so, the value of clearance is Rs. 20,77,163.95 and, therefore, the clearances exceeding Rs. 15 lakhs would be chargeable to duty @ 15% advance which has been worked out to be the duty amount mentioned above.

2. None appears for the appellants in spite of notice; hence we heard the learned DR.3. We find that the appellants had raised several points in the reply to the show cause notice and also in the written submissions filed before the adjudicating authority. One among their defences is that Anand Engineering Works got the electric motors machined by job workers and in support of their contention they had filed certain invoices for labour charges. This was to rebut the charge in the show cause notice that they did not have sufficient machinery for carrying out the manufacture of motors and, therefore, they used the motors of the other unit viz. Anand Khetsinchan (P) Ltd. Another defence was that there was no financial flow back and the statement of Shri A.B. Bobde showing that both the units had

common interest in each other should not be interpreted as meaning mutual interest so as to warrant clubbing of the clearances of both units. We find that the adjudicating authority has not dealt with any of the points raised by the appellants before him.

The order suffers from the infirmity of being a non-speaking one. We, therefore, set aside the impugned order and remand the matter for de novo consideration for passing of fresh orders after giving detailed findings on the pleas urged by the appellants and after affording to them a reasonable opportunity of being heard in the matter adducing such evidence as they consider necessary to suport their case.