Architectural Systems Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-06-1999

Reported in : (1999)(112)ELT1037TriDel

Appellant : Architectural Systems

Respondent : Collector of Central Excise

Judgement :

1. In this appeal filed by M/s. Architectural Systems, the matter relates to the eligibility to the benefit of Notification No.175/86-C.E., dated 1-3-1986. Under Notification No. 175/86, the refrigerating and air-conditioning appliances, machinery and parts, and accessories thereof falling under Chapters 84,85 or 90 were not eligible for the small scale benefit. The appellants had contended that the cooling towers manufactured by them were not covered by the exclusion under Notification No. 175/86-C.E. The Collector of Central Excise, Madras did not agree with the contention of the assessee and demanded duty of Rs. 1,13,406/- and imposed a penalty of Rs. 10,000/-.

2. When the matter was called, no one appeared for the appellants. The notice for today's hearing had been issued on 25-5-1999 and a copy was also endorsed to the Counsel on record. There is no response. There is no request for adjournment. As it is an old matter in which show cause notice was issued in the year 1992, we are proceeding to deal with the matter on merits after hearing, Shri R.K. Sharma, SDR.3. We have gone through the facts on record. We find that the exclusion under Notification No. 175/86-C.E. is widely worded and covers not only the

refrigerating and air-conditioning appliances and machinery but their parts and accessories also. Further, parts and accessories could be classified under any of the headings under Chapters 84,85 and 90. We find that the function of the cooling tower is to reduce the temperature of heated water reaching the cooling tower from the diesel engine sets and so when recycled, the main purpose was to cool the water for air-conditioning and other related purposes. The cooling towers are certainly accessories to the air-conditioning plant.

4. Keeping in view the functioning of the disputed goods, we consider that the view taken by the ld. Collector of Central Excise was correct.

However, keeping in view the circumstances and facts, we reduce the amount of penalty from Rs. 10,000/- to Rs. 5,000/-. Subject to the reduction in the amount of penalty from Rs. 10,000/- to Rs. 5,000/-, the appeal is rejected.