Asia Foundations and Vs. Commr. of C. Ex.

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SooperKanoon Citation : sooperkanoon.com/16512

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-16-1999

Reported in : (1999)(114)ELT330Tri(Mum.)bai

Appellant : Asia Foundations and

Respondent : Commr. of C. Ex.

Judgement :

1. In its order on the stay application filed by the same applicant is before us (Appln. E/Stay-269/98 in Appeal No. E/319/98) this Tribunal had taken a prima facie view that girders cast for construction of bridges for the Konkan Railways were not liable to duty, for the reason that they came into existence fully between the spans of the bridge and hence were immovable property and also on the ground that the benefit of the Notification 59/90 could be available to the girders if they were considered to be movable. This notification inter alia exempts the goods manufactured at site used in construction of building. There is however some doubt whether the bridge is a building within the meaning of the notification. However we note that the Tribunal in its decision in Pratibha Industries & Anr. v. C.C.E. has extended the benefit of the Notification (E/1134/92 and E/1642/95) to storm water drains, although it must be admitted that the question as to whether that is building or not, was not considered in the application. In view of the earlier decision of the Tribunal, we waive deposit of the duty demanded of Rs. 28.54 lakhs and penalty of equal amount and stay their recovery.