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United Engineers Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-20-1999

Reported in : (2000)LC121Tri(Delhi)

Appellant : United Engineers

Respondent : Collector of Central Excise

Judgement :

1. The appellants filed this appeal against the order-in-appeal dated 4-3-1991 passed by the Collector of Central Excise (Appeals). In this case the benefit of Notification No. 155/86-C.E., dated 1-3-1986 is denied to the water filter produced by the appellants on the ground that water filter is an on-line attachment.

2. The learned Counsel appearing on behalf of the appellants submits that there is no dispute regarding classification of the goods. She submits that Notification No. 155/86-C.E. at Sri. No. 4 allows nil rate of duty on the water filter of the capacity of less than 40 litres. She submits that the water filter produced by the appellants does not exceed capacity mentioned in the notification. She also produced the catalogue of the water filter. She submits that the notification does not prohibit benefit to the instant filter or on-line filter. She also relied upon the decision in the case of IEK Plastics Ltd. (Final Order No. 1030/98-131, dated 6-7-1998 -1999 (107) E.L.T. 205 (T) and submits mat the benefit of notification in this case is allowed for the similar product. The appeal against the same order has been dismissed by the Hon'ble Supreme Court vide order dated 22-3-1999. She, therefore, prays that the appeal may be allowed.

3. Learned JDR submits that the notification is for the filter which are of the capacity of less than 40 litres. The filter in question does not have the storage capacity of even 2 litres of water. He, therefore, prays that the appeal be dismissed.

5. In this case the issue is whether water filter produced by the appellants are entitled for the benefit of Notification No. 155/86-C.E.at Sri. No. 4(11). The relevant portion of the notification is reproduced below :- "Effective rates of duty for certain goods falling under Chapter 84.

- In exercise of the powers conferred by Sub-rule (I) of rule 8 of the Central Excise Rules, 1944, the Central Government hereby exempts the goods specified in column (3) of the Table hereto annexed and falling under Heading or Sub-heading No. of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) specified in the corresponding entries in column (2) of the Table, from so much of the duty of excise leviable thereon which is specified in the said Schedule as is in excess of the amount calculated at the rate specified in the corresponding entry in column (4) of the said Table.

Sl.	Heading No.	Description of goods	Rate No. or sub-heading
1	2	3	4
...	4.		
	8421.00	(i) Goods other than Fifteen	the following namely :- per

6. The notification provides nil rate of duty for the water filter not exceeding 40 litres. The Revenue is not disputing the fact that product is water filter but denying the benefit on the ground that it is an on line water filter. There is no condition in the notification that on-line water filter is not entitled for exemption. We find that the Tribunal in the case of C.C.E. v. IEK Plastics Ltd. vide Final Order No. 1030/98-B1, dated 6-7-1998 [1999 (107) E.L.T. 205 (Tribunal)]allowed the benefit of this notification on the similar product called Zero 'B' water filter. In view of the earlier decision of the Tribunal on the similar product, we hold that water filter produced by the appellants

are entitled for the benefit of Notification No. 155/86-C.E.7. In view of the above discussion the impugned order is set aside and the appeal is allowed.

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