Commissioner of Central Excise Vs. Jaora Sugar Mills

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-16-1999

Reported in : (2000)(115)ELT124TriDel

Appellant : Commissioner of Central Excise

Respondent : Jaora Sugar Mills

Judgement :

1. In this appeal filed by the Revenue, the matter relates to the modalities of clearances in respect of excess sugar eligible for concessional rate of duty under Notification No. 160/88-C.E., dated 3-5-1988. The respondents, M/s. Jaora Sugar Mills have prayed for decision on merits.

2. We have heard Shri V.M. Udhoji, JDR and have gone through the records.

3. During the period 1-5-1988 to 31-7-1988, the respondents were eligible for the benefit of Notification No. 160/88-C.E. in respect of 10,626, quintals of sugar. At the end of the period, they had only a quantity of 7,826 quintals and prayed that for the balance quantity of 2,800 quintals, they may be allowed to clear equivalent quantity irrespective of the period of production. This was denied by the Asstt.

Collector of Central Excise. The Commissioner of Central Excise (Appeals) referred to para-3 of the Notification and observed that benefit of the Notification aforesaid was available in respect of excess quantity irrespective of the period of production.

4. There is no dispute that the respondents had produced sugar in excess of the base production in terms of Notification No. 160/88-C.E., dated 3-5-1988 and were thus, eligible for the clearances of the quantity of 10,626 quintals of sugar under exemption in terms of that Notification. Para-3 from that Notification is extracted below :- "The exemption under this Notification may be availed of on any quantity of sugar cleared for home consumption, which is equivalent to the excess production of sugar." 5. In view of the expressed language in the Notification, we consider that the view taken by the Commissioner of Central Excise (Appeals) that the manufacturer could clear the excess quantity irrespective of the period of production is correct. We do not find any merit in this appeal filed by the Revenue and thus, we reject the appeal filed by the Revenue. Ordered accordingly.