Phoolsons Agricultural Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-21-1984

Reported in : (1987)(31)ELT125TriDel

Appellant : Phoolsons Agricultural

Respondent : Collector of Central Excise

Judgement :

1. We have heard, Shri R.K. Jain, learned Consultant in support of the appeal dated 27-1-1984 filed by M/s Phoolson Agricultural Industries (Regd.), Baraut against the Order-in-appeal Nos. 237 & 238/1983, passed by the Collector of Central Excise (Appeals), New Delhi. We also heard Sh. K.V. Kunhikrishnan, D.R. on behalf of the Department.

2. Sh. R.K. Jain, learned Consultant pointed out that Order-in-appeal passed by the Collector of Central Excise (Appeals) Delhi suffers from the following infirmities : Firstly, it refers to two letters addressed to the appellants by the Superintendent of Central Excise, Baraut, when in fact only one letter had been sent. The Collector dismissed both the appeals of the appellants, when in fact only one appeal had been preferred before him.

Secondly, although the Collector has considered the two letters of the Supdt. Central Excise, Baraut as not appealable, he was pleased to 'dismiss' the two appeals by his aforesaid order.

Thirdly, although the Collector has addressed the order to a wrong designation has made a mistake in the name of the designation of the appellants inasmuch as he has addressed the order to M/s Phoolson Industries (Regd.), Baraut (UP) instead of M/s. Phoolson Agricultural Industries (Regd.) Baraut (U.P.).

Fourthly, the Collector of Central Excise (Appeals) has dismissed the appeal without giving any opportunity of-personal hearing to the appellants which was specifically requested by the appellants in their letter dated 23-8-1979.

3. Sh. R.K. Jain, learned Consultant for the appellants further argued that the Collector has not obviously applied his mind and has denied the statutory right of personal hearing under Section 35A(1) of the Central Excises & Salt Act, 19H to the appellants. Sh. Jain, therefore, submitted that the matter should be remanded to the Collector of Central Excise (Appeals), Delhi for considering the submissions of the appellants on merits and for passing a speaking and reasoned order after giving an opportunity of personal hearing to the appellants.

4. Sh. K.V. Kunhikrishnan, D.R. on behalf of the respondent could not make any submission on the points raised by Sh. Jain for want of information. He, however, conceded that the matter was such as required de novo consideration by the Collector of Central Excise (Appeals), New Delhi. " 5. Having considered the submissions, we are of the view that the Collector of Central Excise (Appeals) seems to have decided the matter in hurry and without complying with the statutory requirements of giving personal hearing to the appellants. In view of this, we set aside, the order in appeal and remand the case to the Collector of Central Excise (Appeals), New Delhi for de novo consideration.