

Plastix Kar Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-08-2000

Reported in : (2001)(130)ELT462TriDel

Appellant : Plastix Kar

Respondent : Commissioner of Central Excise

Judgement :

1. The above appeal arises out of the order of the Collector of Central Excise, Bombay who has confirmed a duty demand of Rs. 2,90,387/- on Plastic components of Diesel Engines namely Slide Rail Assembly, Slide Rail and Regulator components falling under Chapter headings 84.09 and 90.33 manufactured by the appellants herein, which were seized from a tempo on 10-1-1992 and imposed a penalty of Rs. 20,000/- upon the appellants.

2. The appellants have asked for a decision on merits; hence we heard the learned DR and perused the records.

3. We find that parts of Diesel engines were marked with monogram of M/s. Bajaj Tempo Ltd. who is not eligible for exemption from Notification No. 175/86 claimed by the appellants. The plea that benefit of notification is available in terms of para 7 is not acceptable since the seized goods manufactured were found consigned to M/s. Hira Plastics and hence are not component parts of machinery or equipment or appliances cleared from a factory for use as original equipment in the manufacture of the said machinery or equipment or appliances cleared from a

factory for use as original equipment in the manufacture of the said machinery or equipment or appliances which components alone are covered by the provisions to para 7 to Notification No. 175/86. In other words, the goods were not cleared for use by OE manufacturers (M/s Bajaj Tempo Ltd.) as the CT-2 certificate issued to M/s Bajaj Tempo Ltd.) is a general certificate which does not show that goods manufactured by the appellants (seized goods) were cleared to them. Further the certificate dated 1-8-1992 issued by M/s.

Bajaj Tempo Ltd. is only a general certificate and is not specifically in respect of the seized goods. We therefore, hold that the benefit of Notification 175/86 is not available to the appellants. Similarly the benefit of Notification 217/85, dated 8-10-1985 which exempts component parts of diesel oil operated internal combustion engines (other than certain specified items) intended for use in the manufacture of diesel operated internal combustion engine, provided that where such use is elsewhere other than in the factory of production of such component parts, the procedure set out in Chapter X of the Central Excise Rules is followed, is not available to the assesseees, since there was total non-compliance with the Chapter X procedure.

4. In the result, we uphold the duty demand on the appellants. However, having regard to the quantum of duty and totality of the facts and circumstances of the case, we reduce the penalty to Rs. 10,000/-. The appeal is thus partly allowed.

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