

AshwIn Enterprises Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Apr-18-2000

Reported in : (2000)(120)ELT727Tri(Mum.)bai

Appellant : AshwIn Enterprises

Respondent : Commissioner of Central Excise

Judgement :

1. These two appeals involve the common issue where the appellant is the same. These are, therefore, being disposed of by this common order.
2. The appellants manufactured boxes for housing chokes for fluorescent tubes on job work basis. The names of the end-users were embossed on these boxes. In the impugned orders it was held that the mischief of Paragraph VIII of the Notification No. 175/86 would take away the eligibility of these inputs for concessional clearances under Notification No. 175/86. Hence, these appeals.
3. We have perused substantial case laws. In the bulk of the judgments, the denial on this ground was upheld where the final goods with brand name were manufactured by a claimant assessee. Shri Naik has placed on record a number of judgments where in specific circumstances several component parts have been held as eligible for the benefit of this notification. The very same goods were so held eligible in the judgment reported in 1999 (112) E.L.T. 885 in the case of CCE v. Bright Engineering Co. We find that this judgment derived strength from certain instructions which advised the Collectors that the SSI units manufacturing

labels/collapsible tubes/crown corks/pp caps would in similar circumstances merit the benefit. Similar was the ratio of the judgment in the case of Ravi Metalloids 1993 (63) E.L.T 326 (Tri) as also 1999 (32) RLT 42. We have also been shown Madras High Court judgment reported in 1990 (49) E.L.T 33 with identical words.

4. Shri Ramtake would, however, urge for strict interpretation of the same clause. It is his submission that even if they are taken to be component parts, the first proviso would not be attracted where the provisions of Chapter X are not followed.

5. We have considered the rival submissions. The perusal of the judgments would indicate that in all cases the Tribunal had distinguished between the component parts manufactured by the job worker as against final goods. The Ministry in discussing the latter Notification No. 1 /93 in their Circular No. 71/71/94 dated 27-10-1994 have also extended the benefits to branded castings which would later become components parts of diesel engines. In the case of electricity meters, it has been ruled that the manufacturer would not supply these in the course of trade but to the manufacturers of the meters and therefore the phrase "during the course of trade" used to explain the "brand name" would not be attracted.

6. The subject Notification itself interpreted the phrase "brand name or trade name". Put in a very simple manner, it is the definite relationship between a particular manufacturer and a particular commodity. For this to be fully applied, it has to be held that it relates to final goods which are ready for being put in the stream of commodity market. Incidentally, where the contested goods are component parts not ready for entry in the market but meant for supply to the manufacturers who made the final goods, then the restriction does not stand attracted. Shri Ramtake is quite correct in saying that this would apply only where the Chapter X procedure is followed. But in the body of the case laws submitted before us, this point was not raised.

There is also separate case law which states that Chapter X is procedural and mere nonconformity therewith would not take away the substantive benefit of the notification. That sentiment would apply to this notification also. We, therefore, find for appellants and allow the appeals with consequential relief.