

Commissioner of C. Ex. Vs. Kranes Kraft and Controls (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-24-2000

Reported in : (2000)(120)ELT515TriDel

Appellant : Commissioner of C. Ex.

Respondent : Kranes Kraft and Controls (P) Ltd.

Judgement :

1. This is an appeal filed by the Revenue against the order in appeal dated 10-3-1994 the Collector of Central Excise (Appeals), Madras. The respondents are M/s. Kranes Kraft and Control (P) Ltd. The matter relates to the availment of small scale exemption under Notification No. 175/86-CE dated 1-3-1986 when the last clearance towards the eligibility for full exemption was splited up partly towards exempted clearances and partly towards dutiable clearances. The appellate authority has taken a view that there was no restriction or stipulation in Notification No. 175/86-CE that any value in the gate pass could not be splited up in such circumstances.

2. No one is present for the respondents. The notice has come back undelivered with the postal remarks "not known". It is an old matter in which the show cause notice was issued in the year 1992. The amount of duty involved is Rs. 10,443,84. The period of dispute is 3-9-1991. We are accordingly proceeding to deal with the matter on merits after hearing Shri Satnam Singh, SDR.3. The brief facts of the case have been summarised by the appellate authority in para 2 of his order. It is mentioned therein that upto 22-9-1991 the aggregate value of clearances of the

respondents was Rs. 18,10,112/- . On 3-9-1991 they cleared crane valued at Rs. 7,22,000/-.

As towards the eligibility limit they had a balance of Rs. 1,89,888/-, they bifurcated the value of Rs. 7,22,000/- in two - one for exemption for Rs. 1,89,888/- and another for Rs. 5,32,112/- towards payment of appropriate duty.

4. After going through the facts on record and the impugned order in appeal, we find that a correct view had been taken by the Collector (Appeals). There is no infirmity in his order. We endorse the same. As a result the appeal filed by the Revenue is dismissed.

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