

**Commissioner of Central Excise Vs. Chandra Enterprises**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Jun-23-2000

**Reported in :** (2000)(120)ELT385TriDel

**Appellant :** Commissioner of Central Excise

**Respondent :** Chandra Enterprises

**Judgement :**

1. The only issue in dispute in the present appeal relates to the eligibility of the respondents herein to exemption in terms of Notification No 75/87 for goods falling under heading 84.18 of the Schedule to the CETA 1985. According to the Revenue which has filed the appeal against the order of Collector (Appeals), the respondents are ineligible to the exemption since the aggregate value of clearances of all goods manufactured by the respondents herein which were exempt under Notification No 1/93 which is past clearance value, is required to be taken into account for the purpose of computation of clearance value under Notification No 75/87 and the aggregate value "of clearances of all goods manufactured by the respondents namely goods falling under Chapter 84 as well as goods falling under Chapter 90 and 94 exceed the ceiling limit prescribed under Notification No 75/87.

2. The relevant notification No. 75/87 Explanation II according to which aggregate value of clearances of goods exempted under a notification which is not value based or quantity based shall not be taken into account. In the present case, since the respondents were claiming the benefit of exemption under Notification 1/93 for

goods falling under Chapter 90 and 94 and Notification 1/93 is a value based exemption notification, the value of clearances of goods falling under Chapter 90 as well as 94 are to be taken in terms of language of explanation II.3. We have heard Shri R.S. Sangia, learned DR and Shri K.G. Seth, learned Advocate. In view of clear language of explanation II of notification, we agree with the learned DR that the aggregate value of all goods falling under Chapter 90 and 94 by the respondents shall have to be taken into account while computing the value of clearances for the purpose of determining the eligibility to Notification 75/87 benefit. Since there is no dispute that the aggregate value of clearances of all goods manufactured by the respondents exceeds the ceiling limit prescribed in Notification 75/87, the Department's contention that the assessee is not entitled to the benefit of Notification 75/87 is accepted. In the result, we set aside the impugned order and allow the appeal of the Revenue.

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