

R.K. Electronics Vs. Collector of Central Excise

R.K. Electronics Vs. Collector of Central Excise

SooperKanoon Citation : sooperkanoon.com/18706

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-19-2000

Reported in : (2000)(71)ECC128

Appellant : R.K. Electronics

Respondent : Collector of Central Excise

Judgement :

1. In this appeal filed by M/s. R.K. Electronics (India) Ltd., the matter relates to the demand of Central Excise duty for the period 25-7-1989 to 31-8-1989 on the ground that during this period the appellants' premises were not recorded in the relevant registration certificate issued by the Small Scale Industrial Directorate. The duty of Rs. 50,483/- has been demanded by the Department and had been confirmed by the Collector of Central Excise, Allahabad.

2. Shri B.C. Saxena, Consultant, submitted that due to difficulties in getting the adequate space the unit had to shift to new premises in the same city and in fact under the same postal zone. When the show cause notice was issued, they shifted back to their old premises and even before the shifting and after shifting back to the old premises, the Department has treated them as Small Scale Unit eligible for the benefit of Notification No. 175/86-C.E. It was his submission that even during this interim period, they have applied for L-4 Licence and had been issued as the unit was likely to cross the exemption limit. He referred to a number of decisions of the Tribunal wherein a view has been taken that on account of mere shifting of the premises, the benefit of small scale exemption was not to be denied.

3. In reply, Shri Sheo Narayan Singh, SDR, submitted that legally the unit was required to have a registration certificate for the new premises which they did not have. He reiterated the grounds taken by the adjudicating and the appellate authorities.

4. We have carefully considered the matter. We find that there is no dispute that before shifting to the new premises w.e.f. 25-7-1989 the appellants unit was considered as a eligible small scale unit both by the Department as well as by the Directorate of Industries. After 31-8-1989, they have again shifted back to the old premises and there is no dispute for that period. The demand has been made for the period 25-7-1989 to 31-8-989. There is no other allegation of illicit removal or non-availability of the benefit of small scale exemption. The learned consultant had also referred to the Tribunal's decision in the case of (1) CCE v. S.K. Engg. & Trading Co., 1993 (68) E.L.T. 240 (T); (2) Syn Pack (P) Ltd. v. CCE, Bombay-II, 1994 (71) E.L.T. 98 (T); and CCE, New Delhi v. Peripherals India and Ors., 1994 (51) ECR 110 (T) .

In these decisions, a view has been taken by the Tribunal that mere shifting of factory to different location will not make them ineligible for the benefit of small scale exemption if other conditions are otherwise satisfied.

5. There is nothing on record that the appellants were not otherwise eligible for the benefit of small scale exemption.

6. Taking all the relevant facts and considerations into account, we do not agree with the view taken by the learned Collector of Central Excise (Appeals). As a result, the appeal is allowed. Ordered accordingly.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com