B.H.E.L. Vs. Commissioner of Central Excise

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SooperKanoon Citation : sooperkanoon.com/19406

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-12-2000

Reported in : (2001)(128)ELT240TriDel

Appellant : B.H.E.L.

Respondent : Commissioner of Central Excise

Judgement :

1. This is an application for waiver of pre-deposit of Rs. 80,75,841/- confirmed as duty on Bus ducts manufactured by the appellants herein, consequent upon their classification under CET Chapter heading 8544.00.

2. None appears for the appellants; hence we heard the learned DR and perused the records.

2. We find that in the case of Vikas Engineering Associates v.Commissioner of Customs, Allahabad reported in 1995 (78) E.L.T. 219, the Tribunal has upheld the classification of bus ducts under CET sub-heading 8538.00 as part suitable for use solely or principally with apparatus of heading 85.35, 85.36, or 85.37. Therefore, prima facie, classification under CET sub-heading 8544.00 is erroneous and the demand raised thereunder cannot prima facie be sustained. In view of the Tribunal's decision, appellants have made out a strong prima facie case for waiver of pre-deposit and stay of recovery of duty pending the appeal. We order accordingly.