Commissioner of Central Excise Vs. Mech. Engineers

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-18-2000

Reported in : (2001)(127)ELT145TriDel

Appellant : Commissioner of Central Excise

Respondent : Mech. Engineers

Judgement :

1. In this appeal filed by the Revenue, the issue relates to the entitlement of benefit of Notification No. 175/86 dated 1-3-86 to the respondents in respect of the clearances made by them up to Rs. 30 lakhs during the period 1-4-91 to 31-3-92.

2. The respondents are engaged in the manufacture of excisable items falling under Chapters 84 and 73 of the CETA. They cleared their excisable goods in the aggregate value of Rs. 29,04,069.63, of Chapter 84 up to 16-3-92 and of Rs. 2,49,227/- of Chapter 73 up to 27-2-92.

Since the total aggregate value of these clearances came to Rs. 31,53,296.63, they were served with a show cause notice for payment of duty on the exceeded clearances of the value of Rs. 2,26,595/-. After getting the reply, the Assistant Commissioner through Order-in-original confirmed the duty demand of Rs. 13,029.21 on them. But this order of the Assistant Commissioner, when challenged in appeal by the respondents, was reversed through impugned Order-in-appeal by the Commissioner (Appeals).

3. The revenue has come up in appeal before the Tribunal against the impugned order of the Collector.

5. The facts are not much in dispute. The respondents are registered as SSI unit. They are manufacturer of excisable goods falling under two Chapters i.e. Chapter 84 and Chapter 73 of the CETA. When their clearances exceeded Rs. 20 lakhs under one Chapter No. 84, they paid the duty on the excess clearances. However, under the other Chapter 73, their clearances were only of the value of Rs. 2,26,595/ i.e. much below the prescribed limit. Even their total clearances under both the Chapters at nil rate of duty, did not exceed the prescribed limit of Rs. 30 lakhs. The clearances made by them on payment of duty could not be legally computed, while determining their total clearances of nil rate of duty in terms of Notification No. 175/86 dated 1-3-86.

Therefore they were entitled to the benefit of this Notification for the period in question for having not exceeded the prescribed limit of Rs. 30 lakhs. In this regard, we are fortified by the ratio of the law laid down by the Tribunal in the case of Commissioner of Central Excise, Mumbai v. Mehta Enterprises [2000 (39) RLT 654, wherein this very view had been taken, after following the earlier decision of the Tribunal in the case of E.LP.M. Industries v. CCE, Coimbatore reported in 1989 (43) E.L.T. 559.

6. In view of the discussion the view taken by the Collector (Appeals) that the respondents were entitled to the benefit of the Notification No. 175/86 for having not exceeded the prescribed limit of Rs. 30 lakhs on their first clearances, without payment of duty as SSI unit during the period in question (1-4-1991 to 31-3-1992) is perfectly valid and does not suffer from any legal infirmity.

7. Consequently, there is no merit in the appeal of the Revenue and the same is dismissed.