

Commissioner of Central Excise Vs. Bharat Electricals

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-10-2000

Reported in : (2001)(127)ELT468TriDel

Appellant : Commissioner of Central Excise

Respondent : Bharat Electricals

Judgement :

1. This is an appeal preferred by Revenue being aggrieved by the Order-in-Appeal No. 389/98, dated 17-11-1998, passed by the Commissioner (Appeals).

2. We heard Shri M.P. Singh, Id. DR and Shri Bipin Garg, Id. Advocate.

The brief facts are that the Respondents M/s Bharat Electricals are purchasing Tig Iron and C.I. Scrap' from the market and sending the same to M/s Sagoon Foundry Pvt. Ltd. for manufacture of C.I. Castings.

They approached the Department for allowing them to send the raw-materials to their job worker under the provisions of Notification No. 84/94-CE, dated 11-4-94. The Assistant Commissioner, under letter dated 2-11-98, directed them to follow the procedure as laid down in the Chapter X of the Central Excise Rules. On appeal the Commissioner (Appeals), under the impugned Order set aside the Assistant Commissioner's directions, holding that Notification No. 84/94 did not prescribe the condition of following the procedure prescribed under Chapter X. He has also given his findings that since the C.I. Castings are returned to the

Appellants by the Job Worker and they are used by the Appellants in manufacturing the finished goods i.e. P.D. Pumps which are exempted from payment of duty, the case of the appellant is fully covered under Notification 84/94-CE. The Id. DR has emphasised that the Respondents, under their letter dated 3-8-98, have themselves sought permission to move the raw materials under Chapter X procedure and as such they could not subsequently claim any grievances if the Assistant Commissioner directed them to send the products under Chapter X procedure. He also pointed out that as P.D. Pumps, manufactured by the Respondents, attract Nil rate of duty in the Tariff itself, these are not covered by SSI Notification No. 8/98-CE and as such the Notification No. 84/94 will not be attracted in their case. Shri Bipin Garg, Advocate on the other hand, submitted that as both raw-materials are purchased by them from the market the question of availing of any exemption under 84/94 does not arise and they did not require any permission from the Department to send the raw-material to the job worker.

3. We have considered the submission of both the sides. The undisputed fact is that the Respondents are purchasing Pig Iron and C.I. Scrap from the market and they are not manufacturing any of these raw-materials. Notification No. 84/94 provides exemption from payment of duty to the excisable goods which are cleared by a manufacturer to a place outside his factory for getting any job works done on the specified goods subject to the condition that the supplier of the raw-material gives an undertaking to the proper officer. As the raw material is purchased from the market and no exemption from payment of duty is sought in respect of raw-material, the question of applying the provisions of Notification No. 84/94 does not arise in the present matter. Accordingly it is also not necessary for them to follow the Chapter X procedure for sending these goods to their job worker. The appeal is thus disposed of in these terms.