Cce Vs. Komal Straw Board and Mills

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-06-2000

Reported in : (2001)(74)ECC607

Judge : R T Lajja, P Bajaj

Appellant : Cce

Respondent : Komal Straw Board and Mills

Judgement :
1. In this appeal filed by the Revenue, the respondents are M/s. Komal Straw Board and Mill and the order-in-appeal is of the Commissioner of Central Excise (Appeals), Chandigarh being order dated 22.6.2000.

The Ld. Commissioner of Central Excise (Appeals) has made a reference to the Notification No. 22/94-CE dated 1.3.94 as amended by Notification No. 22/95-CE dated 16.3.1995 and had mentioned that no retrospective effect could be given to the amending notification. We find that the Central Excise duty had been demanded for the period subsequent to the issue of the amending notification and no demand has been made for the earlier period earlier than 16.3.95 when amending Notification No. 22/95-CE was issued. It is the settled position that amending notifications are in force from the date of their issue. In the case of I.T.C. Bhadrachalam Paper Boards Ltd. 1994 (52) ECR 331 (SC), the Hon'ble Supreme Court had held that the effective date of the amending notification has to be the date of the amending notification.

As in the present case, the duty has been demanded for the subsequent period as pointed out by the Id. SDR, we do not agree with the view taken by the Ld. Commissioner of Central Excise (Appeals). As he has not gone into the merits of the case, the Ld. Advocate submits that the matter be remanded so that he could argue on merits.

4. We agree with this contention of the Ld. Advocate and after setting aside the impugned order-in-appeal, remand the matter to the jurisdictional Commissioner of Central Excise (Appeals) for re-hearing and deciding the matter afresh on merits after hearing both the sides.

The appeal of the Revenue is thus allowed by way of remand. Ordered accordingly.