Commissioner of Central Excise and Vs. Sharda Texturing Pvt. Ltd.

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SooperKanoon Citation : sooperkanoon.com/21606

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-20-2001

Appellant : Commissioner of Central Excise and

Respondent : Sharda Texturing Pvt. Ltd.

Judgement :

1. The appeal is against the order of the Commissioner (Appeals) holding that in computing, for the purpose of notification 1/93, the value of clearances of the manufacture, it is the date on which the manufacturer opted to avail of the notification that should be reckoned and not, as the department proposed, from the commencement of the financial year for which the notification is claimed.

2. We have heard the departmental representative. Respondent is absent and unrepresented despite notice.

3. This issue has been decided by the larger bench of the Tribunal in Ramakrishna Engineering Works Vs. CCE 1996 (83) ELT 346. The Tribunal has held that the words 'first clearances' occurring in the notification refer to clearances from the commencement of the financial year. There is no basis for the Commissioner (Appeals) view that since the manufacturer elected to avail of the notification in the middle of the financial year (although it was available at the commencement of the financial year), the prior clearances must be ignored.

4. We therefore, allow this appeal, set aside the order of the Commissioner (Appeals) and restore the Assistant Commissioner's order demanding duty.