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Commissioner of Central Excise, Vs. M/S. Machine Plastics Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-27-2001

Reported in : (2001)(132)ELT71TriDel

Appellant : Commissioner of Central Excise,

Respondent : M/S. Machine Plastics Ltd.

Judgement :

1. In this case, the Revenue is aggrieved by the order of the Commissioner of Central Excise, Delhi who has extended the benefit of Notification 217/86 to iron and steel trollies manufactured by the respondents herein for use in handling and transportation of auto parts manufactured by them (material handling equipment).

2. We have heard both sides and carefully perused the recent decision of the Larger Bench in the case of Commissioner of Central Excise, Indore vs. M/s.Surya Roshni Ltd. reported in 2001 (42) RLT 817 which has confirmed the earlier Larger Bench decision in the case of M/s.Jawahar Mills Ltd. and others vs. Commissioner of Central Excise reported in 1999 (32) RLT 379 in the context of Rule 57Q of the Central Excise Rules wherein it has been held that the expression "used for producing or processing of any goods for the manufacture of the final products" occurring in the first leg of clause 1(a) of the Explanation to Rule 57Q is not synonymous with the expression "used for bringing about any change in any substance for the manufacture of the final products" occurring in the second leg of the clause, and that the expression "used for producing or processing" is not limited to the ingredients or commodities used in the process or those directly and

actually needed for turning out, or creation of goods. In view of the fact that material handling equipment has been held in the earlier decisions of the Tribunal to be used for producing or processing of goods and hence eligible to capital goods credit, they cannot be considered to be inputs for the purpose of Notification 217/86. We.

Therefore, allow the appeal of the Revenue.

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