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Cce Pune Vs. M/S. Telco

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-30-2001

Reported in : (2002)(147)ELT1170TriDel

Appellant : Cce Pune

Respondent : M/S. Telco

Judgement :

1. Both sides submit that the main issue involved in these appeals is eligibility of certain machinery items such as Roller assembly, Gauges, Push Troylleys, Conveyers etc. manufactured in the factory to exemption under notification No. 217/86 C.E., This issue remains covered by the decision of the Larger Bench of the Tribunal in the case of Commissioner, Central Excise Indore Vs M/s Surya Roshni Ltd. reported in 2001 (42) RLT 817. Since the cases involve several items, both the sides agree that the appeals may be disposed of by way of remand, with the direction that the cases be re-considered and disposed of in the light of the decision in M/s Surya Roshni Ltd. and other decisions relevant to the issue. We accept the suggestion, set aside the impugned order and remand the case for fresh decision to jurisdictional Commissioner for fresh decision in the light of Larger Bench order cited supra. Commissioner shall pass fresh orders after extending to the appellants reasonable opportunity of being heard and presenting their case during the remand proceedings.

2. The other issue involved in some of the appeals is eligibility to the benefit of notification 281/86 to goods manufactured in the workshop within a factory. This

benefit is not available to the assessee, in view of the decision of the Larger Bench in the case of TISCO Ltd. Vs CCE Madras 2000(118)ELT 104 wherein the Tribunal has held that exemption is available only for production within the workshop situated within a factory and used for repairs or maintenence of machinery installed therein, while it is not the case of the assessee that the goods were so used.

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