Commissioner of Central Excise, Vs. M/S. Coates of India Ltd

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-04-2001

Appellant : Commissioner of Central Excise,

Respondent : M/S. Coates of India Ltd

Judgement :

1. The very short issue for consideration in this case is whether it was open for the appellants to pay duty on the intermediated goods captively consumed, although full exemption was available for such goods under an exemption notification. the Commissioner (Appeals), in his order relying upon certain orders of the Tribunal, held that the appellants had the choice to avail or not avail of the exemption.

Against this order, this appeal has been filed by the revenue. Reliance is placed upon the instruction issued by the Board. It is claimed that the Tribunal had referred a question of law arisen out of the judgement in the case of Everest Converters vs CCE (1995 (80) ELT 91). We find that the ratio of the judgement in Everest Converters vs CCE (1995 (80) ELT 91) has been consistently followed by the Tribunal in a number of cases, including in the judgement in 2000 (121) ELT 468. It has also been held, in a number of cases, that the mere fact that a reference has been made to the jurisdictional High Court, on a question of law arising out of the judgement, the ratio of the judgement would continue to apply. We find that the order of the Commissioner (Appelas) sustains.