Permanent Magnets Ltd. Vs. Commissioner of Customs Airport,

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SooperKanoon Citation : sooperkanoon.com/22876

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-08-2001

Appellant : Permanent Magnets Ltd.

Respondent : Commissioner of Customs Airport,

Judgement :
1. The appeal is taken up for disposal with consent of both sides, after waiving deposit.

2. The appellant imported three consignments of goods in respect of which it claimed, and was granted, the benefit of exemption from duty available in notification 203/92. Some time after clearance, the department issued notice alleging that the benefit had been wrongly granted, for the reason that one of the condition in the notification, the modvat credit should not have been taken and manufactured of the exported goods, had been contravened. In the reply to the notice, the appellant accepted that credit had been taken and claimed that it had been reversed and therefore it was covered by the amnesty scheme announced by the government. It however sought time to produce documents to establish this fact. The documents were in its factory not accessible to it on account of a strike by factory labour from March 1999. In the impugned order, the Commissioner confirmed the proposal in the notice on his finding that the appellant had not cited any material to rebut the allegation contained therein.

3. The fact of the strike is established by an order of the Industrial Court at Jalgaon on a compliant filed by 30 persons claiming to be wrongly dismissed employees of

the firm. The representative of the applicant says that negotiations are going on with labour and the end of strike is in sight. He is hopeful that the company will have access to its factory, and therefore the required documents, in the near future. On the facts of this case, we allow this appeal and set aside the impugned order. The appellant may, within three months from the receipt of this order, file a reply to the show cause notice, making its submissions and enclosing evidence in support on his submission.

The Commissioner shall thereafter adjudicate upon the notice in accordance with law.