Bloom Decor Ltd. Vs. Commissioner of Customs (Export)

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SooperKanoon Citation : sooperkanoon.com/23768

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jun-13-2001

Reported in : (2002)(148)ELT785Tri(Mum.)bai

Appellant : Bloom Decor Ltd.

Respondent : Commissioner of Customs (Export)

Judgement :

2. The appeal is against the order of the Commissioner demanding duty on goods imported by the appellant on the ground that benefit of notification 203/92 was not available to them, for the reason that modvat credit had been availed of in the manufacture of exported goods.

3. In his order, the Commissioner records the submission of the importer that while in some cases modvat credit was not availed of whatever credit had been valid of had bene reversed prior to export of goods. He has said that his request to the importer to produce a certificate by the Jurisdictional Central Excise officer showing that their case would be covered by the scheme of amnesty in the matter announced in the Board circular dated 10.1.93 was not complied with.

The counsel for the appellant claims before us that credit which was taken has been reversed before the goods were cleared from the factory of the manufacturer, hance, legally, credit had not been taken at all on the goods. He also contends that demand is berried by limitation.

The extended period contained in the proviso under section 27(1) of the Act will not apply because there has been no suppression or misdeclaration of facts. He is ready to satisfy the Commissioner on both aspects.

4. Accordingly we allow this appeal and set aside the impugned order.

On the counsel for the appellant making a written submission within two months from the receipt of this order on these two aspects, the Commissioner shall, after giving the appellant reasonable opportunity of being heard, pass order in accordance with law.