

Cce, Chandigarh Vs. M/S. Fenner India Ltd.

Cce, Chandigarh Vs. M/S. Fenner India Ltd.

SooperKanoon Citation : sooperkanoon.com/24136

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-28-2001

Reported in : (2001)(133)ELT455TriDel

Appellant : Cce, Chandigarh

Respondent : M/S. Fenner India Ltd.

Judgement :

1. Respondent herein fabricated, assembled, tested and commissioned conveyer belt system at Srinagar Airport without obtaining licence under Central Excise Rules without following Central procedure. Hence demand was raised for recovery of duty of Rs.1,88,504.66/- ,treating goods as classifiable under CET sub-heading No. 8428.00, and proposing imposition of penalty. Adjudicating authority dropped proceedings, holding that the goods were not manufactured or transported to site nor did they came into existence prior to being permanently attached to the earth and that conveyer system came into existence as part of immovable property. The Revenue's appeal was dismissed by the Commissioner (Appeals) following the tribunal's decision in the case of Elecon Engineering Company Ltd. 1993 (31) RLT 5, hence this appeal.

2. We heard Shri. M.P. Singh, Ld. DR and Shri M.P.Devnath, Ld. Adv. and note that very same issue regarding excise ability and dutiability of conveyer system fabricated by the same assessee at different factory of M/s. DCL Polister Ltd. has been decided by the Tribunal as reported in 2001(43) RLT 733. It has been held that conveyer system attains its identity as conveyer system after operation

required to make it workable took place and before that it was essentially assembling parts, thereafter remaining stages were incomplete system, Tribunal held that it cannot be transported as complete conveyer system to another place but it has to be dis-mantled into parts of such conveyer system. Therefore, system is immovable property. Appeal of the assessee was allowed by the Tribunal. Ld. D.R. is unable to distinguish the above decision, Following the ratio there of me upheld impugned order and reject the appeal.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com