Commissioner of Central Excise, Vs. M/S R.M. Engineering Pvt. Ltd.

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SooperKanoon Citation : sooperkanoon.com/24344

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jul-06-2001

Appellant : Commissioner of Central Excise,

Respondent : M/S R.M. Engineering Pvt. Ltd.

Judgement :

1. The notice issued to M/s R.M. Engineering Pvt. Ltd, the respondent to this appeal, alleged that four invoices issued by the dealers of excisable goods and an invoices-cum-challan of the Steel Authority of India (SAIL for short) were not valid documents for taking credit. It alleged that the dealers were not registered as acquired by law, and the document of SAIL endorsed to the appellant contrary to law. The Assistant Collector confirmed the proposal in the notice. On appeal from this order, the Commissioner (Appeals) took a different view. He said that the two dealers who issued four invoices in question were subsequently registered prior to 31.12.1994. Therefore, in terms of the circular dated 8.11.1994 of the Board, these documents were valid up to 31.1.1994. He further said that the invoice 1.8.1994 of the goods received from SAIL issued by the dealer, who was also registered subsequently, has been produced and this was acceptable. These conclusions are challenged in this appeal by the department.

2. The issues raised in the department's appeal were not raised in the show cause notice. The contention that some details such as time of issue of invoices are lacking in the invoices cannot be entertained at this stage, since it was not raised initially. The contention that the invoices were issued by persons who were not

dealers since they did not buy the goods from their manufacture is also incorrect. Each of the invoices shows details of purchase of the goods directly from the manufacture. Apart from these grounds, the appeal only contains the grounds that were contained in the notice and were already dealt with by the Commissioner (Appeal). The appeal does not challenge the correct ness of his conclusion in this regard.