Commissioner of Central Excise, Vs. M/S Botliboy and Co. Ltd.

Commissioner of Central Excise, Vs. M/S Botliboy and Co. Ltd.

SooperKanoon Citation : sooperkanoon.com/25119

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-23-2001

Appellant : Commissioner of Central Excise,

Respondent : M/S Botliboy and Co. Ltd.

Judgement :

1. This appeal filed by the Revenue was argued by Shri Sarkar, D.R. The respondent was not represented in spite of notice.

2. The assessee manufactured generator sets. These were cleared along with electric batteries. The value of the batteries was included in the value of the generator sets and credit of duty paid on the batteries was taken. Show cause notice was issued seeking recovery of the credit.

The Asstt. Collector dropped the notice holding that batteries were essential components of generator sets. On a reference made by the Revenue, the Commissioner (Appeals) upheld the lower decision relying upon the Tribunal judgment in the case of CCE vs. Videocon VCR[1996(83)ELT436] in which it was held that where batteries were used in the remote control of TV, credit of duty paid thereupon was eligible. Against this order, this appeal has been filed. Reliance was placed on the Tribunal judgment in the case of CCE, Coimbatore vs.

Ashok Layland [1996(83)ELT 364].

3. I have seen both the judgments. The use of a particular input in a particular final product has to be examined regard being had to the characteristics of the final product. The Tribunal had examined the eligibility of batteries fitted with the generate sets in the judgment of Classics Electronics vs CCE, Chandigarh 4. Since the facts are identical, the ratio of the last named judgment will apply to this case. The appeal from the Revenue is dismissed.