Jay Arts Vs. Commissioner of Central Excise,

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SooperKanoon Citation : sooperkanoon.com/26359

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-23-2001

Appellant : Jay Arts

Respondent : Commissioner of Central Excise,

Advocate for Pet/Ap. : Mr. Vipin Jain

Judgement :

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

2. The appellant is a concern providing interior decoration and related services. The notice issued to it demanded duty on the furniture, which it alleged, had been manufactured by it, either in the appellant's premises, or at the premises of its customers. The notice enclosed a list of documents that were relied upon in support o the charges in the notice. Among these are records seized from the business premises of the appellant on 28.6.1997.

3. In response to the notice, the appellant asked for some clarification relating to the terminology employed in the notice and for copies of the records seized from it in order to enable it to submit its reply of defence. A reminder to this letter elicited supply the department of ten bills of customers. The appellant's representative again repeated its request at the hearing before the Commissioner pointing out that it would not be able to properly reply to the notice in the absence of these documents. The Commissioner has dismissed this plea by observing that the

documents have been furnished.

4. The notice issued to the appellant demanded duty on furniture that it alleged to have manufactured by it for a period of three years and for over 30 customers. One of the enclosures to the notice specified the items of furniture which it stated had been manufactured. If the notice as stated in Annexure B to it, relies upon the records of the appellant seized from it, the appellant was certainly entitled to receive these as part of the notice. We take note of the statement of Mr. Vipin Jain, appearing for the appellant, that it is no longer interested in clarification that has been sought and all that it needed is copies of the documents relied upon by the department, which includes all the documents that the appellant would need for its defence.

5. Since these documents have not been given to the appellant, the Commissioner's order cannot be maintained and is set aside, the appeal being set aside. The Commissioner shall now proceed to supply to the appellant copies of the documents relied upon in the notice. The appellant thereafter shall have a reasonable opportunity of filing its reply and being heard. The Commissioner shall thereafter pass orders in accordance with law.