

Apte Amalgamation Ltd. Vs. Commissioner of Customs, Mumbai

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Nov-09-2001

Appellant : Apte Amalgamation Ltd.

Respondent : Commissioner of Customs, Mumbai

Judgement :

1. The appeal is against the order of the Commissioner denying the benefit of exemption contained in notification 203/92 to the goods that the appellant imported, for the reason that one of the conditions subject to which the exemption contained in the notification is available, that modvat credit should not have been taken in the manufacture of exported products, has been contravened.

2. It was the contention of the importer before the Commissioner that it reversed the modvat credit, and therefore was entitled to the benefit of Amnesty Scheme by the Government of India. The Commissioner has declined to accept this. It is his finding that the certificate of the Assistant Commissioner showing the reversal of the credit did not mention the details of the import licence under which the goods were cleared and therefore it is not possible to correlate.

3. The representative of the appellant tells us that he will be able to establish the necessary correlation. He produces correspondence between the appellant and the Assistant Commissioner in this regard asking for issue of certificate. In these circumstances, we are of the view that the appellant should be given one more opportunity to obtain the required certificate and produce it. Mr. Masurkar, manager of the appellant undertakes that he will produce these revised certificates

to the Commissioner within three months from today.

4. The appeal is accordingly allowed and the impugned order set aside.

The Commissioner shall pass orders in accordance with law, after taking into account evidence that the appellant may produce before him within three months from today.

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