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Commissioner of Central Excise Vs. A.C.C. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-13-2002

Reported in : (2002)(81)ECC365

Judge : S Kang, a T V.K.

Appellant : Commissioner of Central Excise

Respondent : A.C.C. Ltd.

Judgement :
1. The revenue filed this appeal against the order-in-appeal passed by the Commissioner (Appeals), whereby the Commissioner (Appeals) held that conveyor system fabricated and erected at site for transporting various raw-materials are not goods chargeable to excise duty.

2. When the case was called, none appeared on behalf of the respondents, in spite of notice.

4. The contention of the revenue is that conveyor system is assembly of large number of machines and other structures which can be dismantled and sold in parts.

5. We find that the issue involved in this case is covered by the decision of the Tribunal in respondents' own case, i.e., A.C.C. Ltd (Pinal Order No. 47-48/2002-B dated 5.2.2002). The Tribunal, after relying upon the decision of the Hon'ble Supreme Court in the case of Triveni Engineering & Industries Ltd. v. C.C.E. 2000

(112) ELT 273 (SC) held that marketability test requires that the goods as such should be in a position to be taken to the market and sold.6. In the present case, the contention of the revenue is that conveyor belt system can be sold after dismantling the same. Therefore, in view of the above mentioned decision of the Hon'ble Supreme Court and the earlier decision of the Tribunal, in respondents' own case, we find no infirmity in the impugned order. The appeal, filed by the revenue, is rejected.

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