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Cce Vs. Standard Processors

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-25-2002

Reported in : (2002)(82)ECC318

Judge : S T G.R., P Bajaj

Appellant : Cce

Respondent : Standard Processors

Judgement :

1. Revenue has filed these four appeals alongwith four stay petitions.

In the stay petitions, there is a request for staying the operation of the impugned order. It has been submitted in the stay petition that the Larger Bench decision of the Tribunal in the case of Sangam Processors 2001 (42) RLT 429 has not been accepted by the Department and appeal filed there against has been admitted by the Apex Court, Ld. DR submits that according to Explanation I to the new Rules notified under Notification No. 14/2000 dt. 1.3.2000, length of galleries is not to be included while determining the capacity of chambers clearly shows that earlier the intention of the Govt. was to include the length of galleries. Ld. DR reiterated the findings of the Asstt. Commissioner in the Order-in-Original.

2. Brief facts of the case leading the present proceedings are that the respondents are independent Textile Processors paying duty under Section 3A of the Central Excise Act, 1944 read with the relevant rule.

They filed declaration indicating the number of stenters. Their production capacity was determined provisionally. On physical verification, it was found that there were galleries in the stenter attached to it. SCNs were issued to the appellants asking them to explain as to why the length of galleries should not be added to the length of the chambers to determine the Annual Capacity of Production of the Hot Air Stenter. The Asstt. Commissioner adjudicating the case held that the galleries attached to the chamber of the stenter shall be added. The appellants filed appeals against this order before the Commissioner (Appeals). The Commissioner (Appeals) following the ratio of the decision of the Tribunal in the case of Sangam Processors cited above held that the length of the galleries shall not be added to the length of the stenter chambers for determining the Annual Production Capacity of the stenter. Being aggrieved by this order, Revenue has filed the captioned appeals.

3. Arguing the case for the appellants Shri Atul Saxena, LD. DR reiterates the submissions in the Appeal Memo stating that the Department has not accepted the decision of the Larger Bench of this Tribunal in the case of Sangam Processors. They have filed an appeal before the Apex Court which has been admitted.

5. We have heard the submissions of the Ld. DR. We have also perused the evidence on record and the case law cited and relied upon by the Ld. Commissioner (Appeals) while deciding the issue in appeal. We note that the issue is entirely covered by the decision of the Larger Bench of this Tribunal. We do not see any reason to disagree with that decision. Following the ratio of that decision, we reject the four stay petitions as also the four appeals filed by Revenue.

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