Commissioner of C. Ex., Vs. Samrat Steel Industries

Commissioner of C. Ex., Vs. Samrat Steel Industries

SooperKanoon Citation : sooperkanoon.com/27812

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-11-2002

Reported in : (2002)(142)ELT386TriDel

Judge : S Kang, a T V.K.

Appellant : Commissioner of C. Ex.,

Respondent : Samrat Steel Industries

Judgement :

1. Revenue filed this appeal against the Order-in-Appeal passed by the Commissioner (Appeals).

2. The proceedings in the present cases started with the issuance of show cause notice to the applicant for denying the benefit of small scale exemption under Notification No. 1/93-C.E. on the ground that they were clearing the goods under the brand name 'New Ship' which is similar to the brand name 'Ship' belonging to M/s. Ship Switchgoar India Ltd. The adjudicating authority dropped the show cause notice.

Revenue filed the appeal and Commissioner (Appeals) dismissed the appeal on the ground that demand is time barred and gave a finding that the goods cleared by the respondents were not of the same brand which were used by M/s. Ship Switchgear India Ltd. 4. The contention of the Revenue is that the goods manufactured by the respondents is cleared under the brand name of 'New Ship' which is similar and in the same style under which the other manufacturer M/s.

Ship Switchgear India Ltd is clearing the goods under the brand name of 'Ship'. The statement of Customers of respondents were recorded and to the effect that they were receiving the goods from the respondents trading the goods as under the impression that these were of 'Ship' brand The Logo of Ship and 'New Ship' brand of the same style and colour and the packing material is also of similar type. The contention of the Revenue is that as the respondents are clearing the goods under the brand name which belongs to other manufacturer, therefore the respondents are not entitled to the benefit of this notification.

5. The contention of the respondents is that Commissioner gave a specific finding that demand is time barred. There contention is that demand is for the period 1-4-92 to 26-3-96 and show cause notice on 25-3-98 and the applicant vide their letter, dated 14-4-94 to the Assistant Collector of Central Excise filed a declaration in respect of their manufacturing activity of electric switchgear under a brand name 'New Ship' as the respondents filed the declaration in the year 1994, therefore, the demand is time barred. The contention of the respondents is that in the present appeal there is not ground taken in respect of this finding given by the Commissioner.

6. Both the authorities below gave a specific finding that the demand is time barred. The finding in respect of time bar is not challenged by the Revenue in the present appeal. The Commissioner at the time of personal hearing examined the goods produced by the appellants under the brand name 'New Ship' and the goods produced with 'Ship' brand and gave a finding that both are different brand names as there are more dissimilarities than the similarities. In view of the above finding, we find no merit in the appeal and is dismissed.