Cce Vs. N.C. Industries

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SooperKanoon Citation : sooperkanoon.com/27890

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-21-2002

Reported in : (2002)(104)LC104Tri(Mum.)bai

Judge : J Balasundaram, A T V.K.

Appellant : Cce

Respondent : N.C. Industries

Judgement :

1. The issue involved in this appeal filed by the Revenue is whether waste and scrap manufactured by the assessees/respondents herein is entitled to exemption in terms of Notification No. 171/88-CE. It is the contention of the Revenue that ferrous waste and scrap arising during the manufacture of metal containers, although covered by Clause 3(i) of Notfn. No. 171/88-CE dt. 13.5.1988, was not eligible to the benefit of Notification since modvat credit had been availed on the inputs out of which the waste and scrap arose.

2. None appeared for the respondents in spite of notice; hence we heard Shri Pardesi, DR and perused the records. We find that in the case of Universal Containers v. CCE, Bombay , the Tribunal has held that waste and scrap arising during the manufacture of metal containers, although covered under Sub-clause (i) of sr. no. 3 of the Notification, is not entitled to the benefit of exemption under Notification No. 171/88 since the modvat credit of duty paid on the inputs had been taken by the assessees. The ratio of the above decision is directly applicable to

the facts of the present case. Hence, following the ratio in the case of Universal Containers cited supra, we set aside the impugned order and allow the appeal.