

**Arvind Singh Vs. Commissioner of Central Excise**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Jun-18-2002

**Reported in :** (2002)LC543Tri(Delhi)

**Judge :** K Usha, N T C.N.B.

**Appellant :** Arvind Singh

**Respondent :** Commissioner of Central Excise

**Judgement :**

1. The common issue arising in these appeals is whether refrigeration plants erected by the appellants can be subjected to excise duty. This issue is already covered in favour of the assesseees by the decision of this Tribunal in the case of M/s. Viridi Brothers reported in 2001 (132) E.L.T. 86 (T). This is also covered by an order passed by the Central Board of Excise and Customs under Section 37B - Order No.58/1/2002-CX., dated 15-1-2002. The relevant portion of the order reads as under : "(iii) Re frigeration/Air-conditioning plants : These are basically systems comprising of compressors, ducting, pipings, insulators and sometimes cooling towers, etc. They are in the nature of systems and not machines as a whole. They come into existence only by assembly and connection of various components and parts. Though each component is dutiable, the refrigeration/air-conditioning system as a whole cannot be considered to be excisable goods. Air-conditioning units, however, would continue to remain dutiable as per the Central Excise Tariff."
2. In the light of the above, these appeals are to be allowed. It is very unfortunate that the Commissioner (Appeals) did not consider it mandatory on him to follow the

ratio of a decision of this Tribunal, even when it was brought to his notice. In paragraph 4 of the impugned order, the Commissioner (Appeals) has referred to 2001 (132) H.L.T. 86 (T), but he has failed to give the reason for not following the binding decision of this Tribunal.

3. In the result, the impugned orders are set aside and the appeals stand allowed.

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