

Sphere Engineers Pvt. Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jul-11-2002

Reported in : (2003)(108)LC744Tri(Mum.)bai

Judge : S Kang, a T V.K.

Appellant : Sphere Engineers Pvt. Ltd.

Respondent : Cce

Judgement :

1. The Appellants filed this appeal against Adjudication Order passed by the Additional Collector of Central Excise. The Adjudicating Authority held that the Appellants are not entitled for the benefit of Small Scale Exemption Notification No. 175/86-CE.3. The Appellants are engaged in the manufacture of two specified goods and were availing of the benefit of Small Scale exemption notification No. 175/86-CE. On crossing the clearance of 15 lakhs in respect of one specified goods the Appellants started paying duty and in respect of other specified goods the Appellants were availing the benefit of Small Scale exemption notification as they had not crossed the limit of 15 lakhs as provided under the notification. The demand was confirmed on the ground that the moment the limit of 15 lakhs was crossed in respect of one specified goods the Appellants are not entitled for exemption in respect of other specified goods though they had not reached up to the exemption limit of 15 lakhs.

4. We observe that this issued has already been covered by the decision of the Tribunal in the case of EL. P. EM. Industries v. CCE and CCE v. Neo Era Agro Engg. 2000 (124) ELT 665. The Tribunal after considering the decision of the Tribunal in the case of CCE v. Khalsa Pulp & paper Inds., Final Order No. 313/90-CE dated 4.4.1990 held that where a manufacturer manufacture excisable goods falling under more than one tariff heading he will be eligible to avail full exemption up to Rs. 30 lakhs subject to the condition that the value of clearance under full exemption shall not exceed 15 lakhs in respect of any one heading. This view of the Tribunal was challenged by the Revenue in the Hon'ble Supreme Court and the Hon'ble Supreme Court dismissed the appeal filed by the Revenue as reported in (127) ELT A47. In view of the above decision of the Tribunal the impugned Order is set aside and the appeal is allowed.

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