Commissioner of C. Ex. Vs. Mewar Bartan Nirman Udyog

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-11-2002

Reported in : (2002)(146)ELT644TriDel

Judge : A T V.K., K Kumar

Appellant : Commissioner of C. Ex.

Respondent : Mewar Bartan Nirman Udyog

Judgement :

1. In this appeal, filed by the Revenue, the issue involved is whether the benefit of Notification No. 3/2001-C.E., dated 1-3-2001 is available to the Brass Circles manufactured by M/s. Mewar Bartan Nirman Udyog.

2. Shri A.S. Bedi, learned SDK, submitted that Sri. No. 200 of Notification No. 3/2001 exempts all the goods falling under Heading 74.09 of the Schedule to the Central Excise Tariff Act other than trimmed or untrimmed sheets or circles of copper intended to be used for in the manufacture of utensils or handicrafts subject to the condition that such goods are not produced or manufactured by a manufacturer who produces or manufacture copper from copper ore or copper concentrate; that the Asstt. Commissioner denied the benefit of Sri. No. 200 of Notification No. 3/2000 as heading 74.09 applies to copper plates, sheets (including circles) and strips of the thickness 0.15 mm. whether made of copper or copper alloys and Sri. No. 200 excludes trimmed or untrimmed sheets or circles of copper of heading 74.09 and not only 7409.10; that Heading 74.09 had a wide

scope to cover all the commodities irrespective of the fact whether it is of bronze, brass, nickel, silver; that Sri. No. 200 is available only when the Respondents manufacture the goods other than trimmed or untrimmed sheets or circles of copper intended for use in the manufacture of utensils or handicrafts falling under 74.09 as a whole; that therefore, they are not eligible for the benefit of Sri. No. 200 but will fall under Sri. No. 201 which provides partial exemption.

3. On the other hand Shri Alok Kothari, learned C.A., submitted that the Respondents are making circles of brass i.e. copper/zinc based alloys falling under sub-heading 7909.20; that circles made of brass are not excluded from the purview of exemption granted under Sri. No.200 of the Notification No. 3/2001.

4. We have considered the submissions of both the sides. Heading 74.09 of the Central Excise Tariff applies only to copper plates, sheets (including circles) and strips of thickness exceeding 0.15 mm. All these products if made of refined copper falls under sub-heading 7409.10 made of brass under 7409.20 and of bronze under sub-heading 7409.30 and of copper nickel or nickel silver under sub-heading 7409.40 and all the other alloys under Subheading 74098.90 [7409.90]. Sri. No.200 of Notification No. 3/2001 excludes from its purview the trimmed or untrimmed sheets or circles of copper. It has not bee n disputed by the Revenue that the circles manufactured by the Respondents are brass which is an alloy of copper/zinc and are not making the circles of copper alone. As the Sri. No. 200 of notification only excludes copper circles the benefit of the said Sri. will be available in respect of brass circles. Accordingly we reject the appeal filed by the Revenue.