Creative Eye Ltd. and Shri Vs. Commissioner of Central Excise

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SooperKanoon Citation : sooperkanoon.com/29321

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Nov-12-2002

Judge : S T Gowri, G Srinivasan

Appellant : Creative Eye Ltd. and Shri

Respondent : Commissioner of Central Excise

Judgement :

1. When the stay applications in the above two appeals came up for hearing, it was found that the appeals themselves could be disposed of and hence the consent of both the sides we have decided to taken up these appeals for disposal.

2. The appellant is a producer of T.V. serials. He produced various TV programmes for being broad cast to various TV channels. It is stated that in the instant case the broad caster is Doordarsan. The question involved is when the appellant produced a TV programme i.e. by shooting the various scenes, whether this amounted to production of goods for the purpose of exigibility of duty under Central Excise Act in the proceedings below the appellant has claimed exemption under Notification No. 64/95 on the ground that the video cassette is meant for the broad cast of Doordarsan. In the proceedings below the appellant has raised this plea in reply to the show cause notice. We have seen the impugned order. We are unable to find any finding given by the adjudicating authority in respect of this. Moreover in our order in Appeal No. E/2903 & 2908/2002-Mum in Order No. C.II/3317-20/WZB/2002 dated 11.11.2002 we have remanded the matter to the same Commissioner (Adj) for consideration of the same question. In our view of

the stay order covers the issue in this appeal as well.

3. As far as the limitations is concerned, in our earlier order we have dealt with the same and has held this may be considered by the adjudicating authority. In fact paragraph 5 of the said order deals with the same. We, therefore, in conformity with the earlier order the matter is remanded for consideration by the adjudicating authority the exigibility of the duty and the availability of Notification No. 64/95 after taking into all the points mentioned above and the applicability of larger period of limitation. The Counsel for the appellant undertakes that he will not argue before the Commissioner fresh material or issues on points other than availability of the exemption of the limitation.