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SooperKanoon Citation : sooperkanoon.com/29646

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-17-2002

Reported in : (2003)(161)ELT214Tri(Mum.)bai

Judge : K Kumar, S T C.

Appellant : Kopran Ltd.

Respondent : Commr. of Customs

Judgement :

1. Heard both sides. The issue relates to grant of exemption to Dane Salt required for manufacture of Amoxycillin under Notification No. 64, dated 6-3-1979. The Notification required production of the certificate regarding receipt of imported goods in the manufacturing premises within a period of three months or such extended period allowed by the Assistant Collector. Admittedly, the appellants have produced the certificate much beyond the period of three months. The case had travelled up to Tribunal earlier and it was remanded to the Collector (Appeals) for fresh order on merits. However, we find that the Commissioner (Appeals) has again rejected the claim of the appellant stating that it is the jurisdiction of the earlier authority to accept delayed end use certificate and since the Assistant Commissioner was not satisfied with the reasons stated by the appellants for the delay, he has confirmed order of the Assistant Commissioner and rejected the appeal.

2. We find that the order in original was passed before the appellants submitted the certificate and the Assistant Commissioner had no occasion to hear the appellants on the issue of delay in submission of the certificate. As such, we remand the matter to the Assistant Commissioner to consider the certificate submitted by the appellants and hear them on the reasons for delay in submitting the same before passing a fresh order. Appeal is al-lowed by way of remand.