

Grey Iron Foundry Vs. Commissioner of C. Ex.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-06-2003

Reported in : (2003)(155)ELT81TriDel

Judge : P Bajaj

Appellant : Grey Iron Foundry

Respondent : Commissioner of C. Ex.

Judgement :

1. In this appeal, the appellants have questioned the validity of the impugned order-in-appeal dated 25-6-2002 vide which the Commissioner (Appeals) has affirmed the Order-in-Original of the A.C. disallowing refund claim of Rs. 1,90,855.83 to the appellants.

2. None on behalf of the appellants has come forward in spite of notice for today's hearing, to prosecute the appeal. However, I have gone through the record and heard JDR for deciding the appeal on merits.

3. The perusal of the record shows that the appellant lodged refund claim of duty on the goods returned to the factory under Rule 173-L(ii). The same had been rejected by the authorities below on the ground of non-adherence to procedure, non-submission of original duty paying documents and non-production of certificates from the range officer regarding non-availment of Modvat credit by the buyers on the goods returned by them, to the appellants.

4. The appellants have along with memo of appeal filed requisite documents in order to show that originally duty was paid by them on the goods but those goods later on were returned to them by the buyers. The copies of those documents and also of the statutory record maintained by the appellants regarding sale of goods and thereafter receipt of goods in the factory, had also been placed on record which are at pages 4 to 32. These documents were not, no doubt, produced by the appellants before the adjudicating authority. But since they have now produced, in the interest of justice, these documents deserves to be examined by the adjudicating authority for deciding the refund claim of the appellants.

The refund claim of the appellants, as observed above, has been rejected only on non-production of these documents and not for any other ground. Therefore, an opportunity deserves to be given to the appellants, in the interest of justice, for proving their defence in support of their refund claim.

5. Consequently, the impugned order of the Commissioner (Appeals) is set aside and the matter is sent back to the adjudicating authority for fresh decision after taking into account the documents produced by the appellants and after affording them opportunity of hearing. The appeal is allowed by way of remand.

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