

Dcm Engineering Products Vs. Commissioner of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-07-2003

Reported in : (2003)(155)ELT612TriDel

Judge : K Usha, N T C.N.B.

Appellant : Dcm Engineering Products

Respondent : Commissioner of Customs

Judgement :

1. This is an appeal at the instance of the importer against order passed by the Commissioner (Appeals) dt. 7-6-02. The order-in-original dt. 19-2-1999 was challenged before the Commissioner (Appeals). The appeal was dismissed on the ground that it was barred by limitation.

The appellant contended that since the order 19-2-99 is the first speaking order received by it, there is no merit in the view taken by the Commissioner (Appeals) that the appeal filed before him was barred by limitation.

2. We had occasion to consider a similar matter in our Final Order No.642/02-A in Appeal No. C/489/02/A. In the above order, we have taken the view that since the Assessing Authority have passed an order on the request made by the appellant and it was mentioned therein that an appeal would lie against that order before the Commissioner (Appeals) within three months from the date of the communication, the Commissioner (Appeals) could not have dismissed the appeal on the ground

of delay. We follow the above view in this case also.

3. We, therefore, set aside the order impugned and remand the matter to the Commissioner (Appeals) for being considered on merits after giving an opportunity of hearing to the appellants.

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