Spect Vision and ors. Vs. Commissioner of Customs and Central

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SooperKanoon Citation : sooperkanoon.com/30825

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-05-2003

Judge : S T Gowri, G Srinivasan

Appellant : Spect Vision and ors.

Respondent : Commissioner of Customs and Central

Judgement :

1. The order of the Commissioner passed in these two groups of appeals is in consequence of the Tribunal's order passed on 4.12.2001 remanding these matters to him. In that order, the Tribunal was concerned with the liability to duty of the parts of spectacle frames that Spect Vision and Specto Plast manufactured in their factory utilised in the manufacture of spectacle frames. The spectacle frames were specified in notification 1/93 and its successor notification. The contention of the appellant is that by applicability of the provisions of this notification (Explanation VI in notification 1/93 and corresponding explanation in the other notifications), the value of these parts should not be taken into account for calculating aggregate value of the clearance of the spectacles. It was this explanation on which the appellant relied and the matter was remanded to the Commissioner for considering this claim.

2. We are unable to find any cogent reasoning in the order of the Commissioner that has been passed confirming the demand from the appellant. His order appears to us to say that the benefit of the exemption will not be available to the parts of the spectacle frames because no goods specified in the notification were

used in their manufacture. This, we are afraid, is the point.CCE v. Universal Electrical Industries 2003 (153) ELT 266. In this judgment, the Supreme Court has construed the scope of Explanation III of notification 175/86, corresponding to Explanation VI of notification 1/93. It said as follows:- "There appears to be a rationale behind this Explanation; firstly, when the value of the finished goods, which are exempted under different notifications, is to be excluded, having regard to the wording of Explanation II, on the same analogy, the value of inputs which are being used for manufacture of finished goods are also excluded as both are specified goods, subject, of course, to the limit of the notification. Secondly, the notification provides relief to small industries; when the inputs which enjoys the exemption under the notification have already been dealt with, there is no reason why the value of the same inputs again be added for the purposes of aggregate value. It follows that the assessee would be entitled to the benefit of Explanation III while computing the aggregate value for the purposes of availing exemption under the notification." 4. This ratio will apply to the fats before us. Accordingly no duty was payable on these goods by the assessees, and the other appellants were not liable to penalty.

5. The appeals are accordingly allowed and the impugned order set aside.