

**Fluidtech Boilers Vs. Commissioner of Central Excise**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

**Decided On :** Aug-08-2003

**Reported in :** (2004)(91)ECC59

**Judge :** S T Gowri, K Kumar

**Appellant :** Fluidtech Boilers

**Respondent :** Commissioner of Central Excise

**Judgement :**

2. The question for consideration in this appeal is the eligibility to the exemption contained in entry 2 of the table to notification 10/87 of the goods manufactured by the appellant. The entry exempts from duty scientific and technical instruments, apparatus, equipment (including computers) and other goods specified therein supplied to non-commercial institutions other than a hospital. The exemption is subject to the condition inter alia that the institution is registered with the Government of India in the Department of Scientific and Industrial Research, an officer not below the rank of a Deputy Secretary to the Government of India in that department certifies in each case that the institution is not engaged in any commercial activity and that the goods are required for research purposes only. In the order impugned in the appeal, the Commissioner (Appeals) has confirmed denial by the Assistant Commissioner of the exemption on the ground that this condition has not been complied with.

3. The representative of the appellant contends that a certificate complying with the conditions specified in the exemption has been furnished by the Director of Medical Education, Madhya Pradesh.

4. We do not see how this certificate is enough to justify the exemption. The requirement contained in the notification that the certificate to show that the registration of the institution in the Government of India in the Department of Scientific and Industrial Research and further that the officer certifies that it is not engaged in any manner activity and the goods are required for such purposes is prima facie not satisfied. The denial of the exemption was therefore in order.

5. In our opinion, the penalty imposed on the appellant also does not require any modification. The representative of the appellant is not able to explain why the appellant did not take elementary steps to ensure, before clearing the goods without payment of duty, that the condition of the notification was not complied with. He accepts that no certificate was furnished by the required authority to the Government of India. The certificate of the Director of Medical Education, Madhya Pradesh, is clearly entirely unacceptable for the purposes of that notification and the appellant is not able to explain that it chose not to furnish a certificate issued by the authority specified in the notification. Quantum of penalty of Rs.1.87 lakhs against the duty of Rs.7.40 lakhs is not incommensurate with the gravity of offence.

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