Aren Engineers Vs. Commissioner of Customs and

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SooperKanoon Citation : sooperkanoon.com/31848

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-11-2003

Judge : J Balasundaram, S T C.

Appellant : Aren Engineers

Respondent : Commissioner of Customs and

Judgement :
1. After hearing both sides for some time on the application for waiver or pre-deposit of duty of Rs. 2,74,352/- (E/82/2003), Rs. 1,87,500/- (E/822/2003) and Rs. 2,30,592/- (E/823/2003), totalling Rs. 6,92,444/-, confirmed on electrical items such as electrical control panels, parts of electrical panels, etc., we find that it is possible to dispose of the appeals themselves at this stage. Hence after waiving pre-deposit of the duty, we proceed to hear and decide the appeals themselves with the consent of both sides.

3. We find that the duty demand has been raised and confirmed as a result of denial of SSI exemption benefit under Notification 1/93-CE dated 28/02/1993 by holding that the value of clearances of M/s. Aren Engineers is to be clubbed with the clearances of M/s. Aree Electricals and Engineering and M/s. Arc Electronics and Research Corporation. This issue was the subject matter of appeal Nos. E/798/88-A, E/2639/88-A and E/2640/88-A which was disposed of by the Tribunal vide the final order No. 467-469/97-A dated 14/03/1997 by way of remand to the jurisdictional adjudicating authority or fresh decision. Remand was necessitated on the ground inter alia that the Collector, who had passed the impugned order

challenged in these appeals did not consider the contentions regarding segregation of manufacturing premises and sharing of electricity charges and the aspect of financial relationship or profit sharing or financial flow back. We are informed that the proceedings are still pending and no fresh orders have been passed pursuant to the above mentioned remand order of the Tribunal. Since the basic issue as to whether the value of clearances of the three units mentioned above are required to be clubbed together still remains open for decision, we set aside the impugned order of demand confirmation and remand the case to the jurisdictional adjudicating authority for fresh decision along with the basic issue which has already been remanded by the Tribunal.