

**L.D. Industries and ors. Vs. Cce**

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

**Decided On :** Aug-29-2003

**Reported in :** (2003)(157)ELT459TriDel

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

**Appellant :** L.D. Industries and ors.

**Respondent :** Cce

**Judgement :**

1. These appeals have come up for consideration pursuant to order of remand by the Hon'ble Supreme Court of India by its judgment dated 4.12.2002 in Civil Appeal Nos. 6161 of 1999 and C.A. Nos. 6152/99 and 6157/99. we heard the learned counsel for the appellants and the learned DR.2. The Hon'ble supreme court after confirming the finding of this Tribunal in order 27.7.99 as to the inter-relationship between the three units, namely, Supreme Washers (P) Ltd., L.D. Industries and LR Industries, partnership concerns remanded the matter back to this Tribunal for the limited purpose of deciding the applicability of Circular dated 1.3.56 as far as M/s. Supreme Washers Pvt. is concerned.

Relevant paragraphs of the judgment is reproduced below:- "In regard to the second contention of the appellant in Civil Appeal No. 6161 of 1999, it is seen from the Circular dated 1.3.1956, which according to the appellants have been reiterated by another subsequent Circular No. 6/92 dated 29th of May, 1992 by the Central Board of Excise & Customs, New Delhi that a limited company should be

treated as a separate entity for the purpose of exemption limit.

If that be the position in law, then there may be some justification for the appellant to urge, so far as M/s. Supreme Washers (P) Ltd. is concerned, it being a limited company, its production can not be clubbed with the other units. However, since this aspect of the case and applicability of the circulars referred herein above was not brought to the notice of the Tribunal, we are in agreement with the suggestion made by the Learned Attorney General that it will be just and proper to remand this matter, for this limited purpose, to the Tribunal for examining the applicability of the Circular relied upon by the Appellants, M/s. Supreme Washers (P) Ltd. For the reasons stated above, we confirm the finding as to the interrelationship between the three units, as found by the Tribunal, and remand the appeals back to the Tribunal for the limited purpose of deciding the applicability of the Circular referred herein as above." 3. Before us the learned counsel for M/s. Supreme Washers (P) Ltd. has produced copies of the circular No. 6/92 dated 29.5.92 and circular No.5 issued vide F. No. 21/31.56-CX.MI dated 10.8.56. Notification No. CER () CE dated 1.3.56 referred in the circular dated 29.5.92 taken note of by the Hon'ble Supreme Court as such is not produced before us. But on going through the circular dated 10.5.56, it is seen that paragraphs (i) to (iii) contained therein are quoted verbatim in circular dated 29.5.92 as if those provision stood contained in Notification dated 1.3.56. Both sides submit before us that what is referred in circular dated 29.5.92 and as contained in Notification dated 1.3.56 are the same as is found in the circular dated 10.8.56. We proceed to consider the matter on the above basis. Paragraph (i) of the circular dated 10.8.96 read as follows:- "(I) Different firms will be treated as different manufacturers for the purpose of the exemption limit. But if a firm consisting of certain partners say, a, b & c has got more than one factory, all these factories should of course be combined. Limited companies whether public or private are separate entities distinct from shareholders composing it. Hence each limited company is a manufacturer by itself and will be entitled to a separate exemption limit." The above portion would show that the limited companies whether public or private are to be treated as separate entities distinct from shareholders and that each such limited company which is a manufacturer will be entitled to separate exemption limit. By applying the above provisions the production of M/s. supreme washers (P) Ltd. has to b

considered separately for the purpose of exemption limit. we clarify the above position and dispose of the appeals. We, therefore, hold that the production of Supreme Washers (P) Ltd. cannot be clubbed with the production of LD Industries and LR Industries for the purpose of assessment.

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