Vasavi Industries Ltd. Vs. Cce

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SooperKanoon Citation : sooperkanoon.com/32209

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT

Decided On : Sep-10-2003

Reported in : (2003)(111)LC702Tri(Bang.)alore

Judge : G B Deva

Appellant : Vasavi Industries Ltd.

Respondent : Cce

Judgement :

1. These 02 (two) appeals are filed by the appellants with reference to the respective impugned orders, involving common issue and therefore they were taken together for hearing and are being disposed of by this common order.

2. The issue relates to determination of annual capacity of production of the re-rolling mills. While determining the annual capacity of production, whether the rolling mill is of low speed or high speed is an issue to be considered in this case.

3. In the adjudication proceedings, the adjudicating authority has relied upon the guidelines issued by Chandigarh-I, Commissionerate.

According to the Department, the speed of the mill in this case is exceeding 8.55 MTs and accordingly its annual capacity is to be determined as high speed mills at 24.356 MTs as against 8.552 MTs as claimed by the party. The party relied upon the technical report given by the Engineer of Raghavendra Industrial Testing Institute, Visakhapatnam. In that opinion, it was stated that Diameter of the roller, over and above the pinion center distance should not be accommodated and it higher dia roller is placed the gear boxes and coupling will be damaged. Accordingly, I find that the speed of the mill is around 8.33 Mts.

4. Shri Rajesh Chander Kumar, learned Advocate for the appellants submitted that the mill size is to be decided by the pinion gear box centers & couplings and not by size of the Diameters. The calculation should be based on small 'd' namely center distance of the pinions in the pinion stand in milimetre.

5. On the other hand, Shri L. Narasimha Murthy, JDR submitted that the guidelines issued by the Chandigarh-I Commissionerate is relevant to decide the issue.

6. Further it was submitted by the Counsel for the appellants that the technical literature/guidelines issued by the Chandigarh-I Commissionerate was not supplied to the party while deciding the issue by the adjudicating authority.

7. The DR fairly conceded that the technical literature/guidelines issued by the Chandigarh-I Commissionerate referred to and relied upon was not given to the party as can be seen from the respective impugned orders. In view of this position, he has no objection to remand the matter for reconsideration.

8. I have carefully considered the submissions made by both sides.

Without going into the merits or demerits of the case, I find that the impugned order suffers from denial of principles of natural justice since the party was not given an opportunity to rebut the technical literature/guidelines referred to by the Department. In view of this position, the matter will have to go back for reconsideration.

Accordingly the matter is remanded to the concerned adjudicating authority to examine the issue afresh in toto, on providing an opportunity to the party. The party may also make use of this opportunity to substantiate their claim with reference to the technical literature/guidelines referred to by the Department. All the connected issues are kept open. Thus, these two appeals are disposed in the above terms.