Cce Vs. Fine Indus. and ors.

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SooperKanoon Citation : sooperkanoon.com/32398

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-24-2003

Reported in : (2004)(91)ECC27

Judge : P Bajaj, M T K.D.

Appellant : Cce

Respondent : Fine Indus. and ors.

Judgement :

1. This appeal has been filed by the Revenue against the impugned order-in-appeal vide which the Id. Commissioner (Appeals) affirmed the order-in-original of the adjudicating authority allowing the benefit of SSI exemption Notification to the respondents in respect of clearances of goods in question detailed in show-cause notice.

2. We have heard Shri A.S. Bedi, SDR for the appellant/Revenue and shri Ravi Ragavan, Consultant for the respondent/M/s . Fine Industries & ORs. 3. Ld. SDR has contended that the benefit of SSI exemption deserves to be denied to the respondents as they are using brand name "Bhalla Fine" on the disputed goods, which is similar to the brand name "Bhalla belonging to M/s . United Foundry & Engg. Works, but the authorities below have wrongly allowed the same. After going through the file, we find that contention of Id. SDR can not be accepted. Both the authorities below have recorded findings that the brand name 'Bhalla Fine' being used by the respondents is quite different and the goods on which they

are using are also different than the goods being manufactured by M/s . United Foundry & Engg. Works who are owners of brand name "Bhalla" only and as such their case did not stand covered by the provisions of para-4 of SSI Exemption Notification No. 1/93-CE.We do not find any material evidence on the record to disturb or reverse these findings of fact recorded by the authorities below.

4. Since the respondents are using the different brand name on a different product than these manufactured by M/s . United Foundry & Engg. Works, they had been rightly allowed the benefit of SSI exemption notification. In respondent's own case, the Larger Bench, to whom matter was referred by the Bench, has observed that where the goods being manufactured by an assessee, charged with allegations of using brand name of another person, are different that the goods manufactured by another person who is said to be owner of that brand name, the benefit of exemption Notification can not denied. The ratio of law laid down in Taj Serpent Engg. Factory v. CCE [1996 (85) ELT 78], followed by the Commissioner (Appeals), has been approved by the Larger Bench.

5. Therefore, the impugned order is perfectly valid and we uphold the same. Consequently appeal of the Revenue stands dismissed.