i.T.i. Ltd. Vs. Cc

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-24-2003

Reported in : (2004)(91)ECC63

Judge : P Bajaj, M T K.D.

Appellant : i.T.i. Ltd.

Respondent : Cc

Judgement :

1. This order will dispose of the above-captioned appeals which had been preferred by the appellants against the Orders-in-Appeals of different dates, but involving the same issue. Since the issue involved in all these case is common, we are going to dispose of the matter by this common order.

2. The facts are not much in dispute. The appellants imported the goods in the year 1985 after paying the duty as demanded by the authorities.

They lodged the claim for the refund of the dues by claiming exemption from duty under Exemption Notification No. 284/76-CE but the authorities below rejected their refund claims. We also find from the record that the matter was first remanded by the Tribunal to the adjudicating authority for deciding afresh after affording the appellants an opportunity of hearing to produce the relevant documents in support of their claims. But having failed to do so, the authorities below have again rejected their claims.

3. We have heard Shri J. Selvam, C.O.A. for the appellant and Shri V.Raja Ram, JDR for the respondent/Revenue.

4. Shri J. Selvam, C.O.A. appearing for the appellants has submitted before us certain documents in order to support the claim for the refund of the duty. He has also stated that the documents were produced alongwith the appeals before the Collector (Appeals) but the same had not been considered. He has requested that the case may be sent back for re-examination to the adjudicating authority on the basis of those documents submitted earlier and the documents submitted by him today.

On the other hand, Ld. SDR has reiterated the correctness of the impugned order.

5. We have gone through the impugned orders. These orders are very short and precise. Ld. Collector (Appeals) had dismissed the appeals of the appellants by simply observing "that inspite of sufficient time granted and reminders issued to the appellants, they have failed to produce the purchase order called for consideration". He has not gone further to decide the matter on merits. But, in the absence of the purchase order, the matter could still be decided by the Collector (Appeals) but he has not so done resulting in miscarriage of justice.

Shri J. Selvam has also submitted that the documents were produced alongwith appeals but had not been considered by the Collector (Appeals). The impugned orders are non-speaking and criptive.

6. Therefore, keeping in view the facts and circumstances of the case referred above, the matter deserves to be sent back to the adjudicating authority for re-examination of the refund claims of the appellants in accordance with law after taking into consideration the documents already produced, or if not produced, which they will produce at the time of hearing.

7. Consequently, the impugned orders are set aside and the matter is sent back to the adjudicating authority for fresh decision as observed above, after hearing both the sides and affording proper opportunity to the appellants to produce documents, if any they wish at the time of hearing.