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Commissioner of Central Excise Vs. Mahindra and Mahindra Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-15-2003

Reported in : (2004)(164)ELT286Tri(Mum.)bai

Judge : S T Gowri

Appellant : Commissioner of Central Excise

Respondent : Mahindra and Mahindra Ltd.

Judgement :

2. Adjudicating on a notice issued to the respondent, the Assistant Commissioner dismissed the claim made by it for rebate of excise duty on tractors that it exported on two grounds. These were that there was a discrepancy between the description of the exported goods in the AR 4 application as "Mahindra tractor" and in the shipping bill and in the bill of lading as "farm tractor Mahindra," and that the duplicate copy of the AR 4 form was not delivered to the jurisdictional Central Excise authorities in a sealed envelope. The as-sessee appealed this dismissal and the Commissioner (Appeals) found that the description of the tractors is same and on his view that the Custom House itself would probably not able to sent such sealed envelop. He allowed the claim for rebate. Hence this appeal.

3. The appeal addresses one of the two issues for which rebate was denied, the absence of the sealed envelope containing duplicate copy of AR 4 form contending that this requirement cannot be dispensed with.

The respondent has produced a copy of the circular clarifying the procedure for export under central excise reproduced in 1995 (75) E.L.T. T69. This clarification while specifying in Paragraph 3 the documents to be filed for claiming the rebate, this paragraph shows that duplicate in sealed cover received from the Customs officer to be an optional document. The absence of the document in sealed cover does not debar the exporter's claim.

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