

**Premier Founders and Engineers Vs. Cce**

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

**Decided On :** Nov-27-2003

**Reported in :** (2004)(113)LC776Tri(Mum.)bai

**Judge :** S T C.

**Appellant :** Premier Founders and Engineers

**Respondent :** Cce

**Judgement :**

1. Heard both sides. The appellants manufacture iron casting. They received certain iron castings from their customers as rejected for which they filed intimation in Form D-3 and also maintained a register in Form V. These castings were melted and fresh castings were remade which were classifiable under the same tariff heading 7325 as the original ones. The impugned order has been passed rejecting the claim for refund under Rule 173L holding the castings received back and the new castings made after re-melting to be different classes of goods.

The appellants cite several decisions in support of their claim that in similar situations refund has been allowed by the Tribunal: 1. CCE, Bhubaneswar v. Orissa Cement Ltd., Rajgangpur .CCE v. Insulated Conductors Pvt. Ltd. 2. After hearing both sides and perusal of the case records and cited case laws, I am of the view that the castings returned to the appellants and the castings re-made after re-melting can be treated as the goods of the same class and hence the appellants are entitled to refund under Rule 173L. As such, I set aside the

impugned orders and allow the appeal.

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