

Commissioner of Central Excise Vs. Jaitu Steels, Hukum Chand Rolling

Commissioner of Central Excise Vs. Jaitu Steels, Hukum Chand Rolling

SooperKanoon Citation : sooperkanoon.com/33477

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-17-2003

Reported in : (2004)(93)ECC439

Judge : A T V.K., P Bajaj

Appellant : Commissioner of Central Excise

Respondent : Jaitu Steels, Hukum Chand Rolling

Judgement :

1. These are three appeals filed by the Revenue against common Order-in-Appeal No. 35-37/03 dated 21.2.2003 2. When the matters were called, no one was present on behalf of the respondents. In fact notice issued to M/s. Hukum Chand Rolling Mills and M/s. Ram Darshan Rolling Mills had been received back from the postal authorities undelivered. We, therefore, heard Ms. Charul Baranwal, learned Senior Departmental Representative, and perused the records. Learned Senior Departmental Representative submitted that the duty on the basis of annual capacity of production was initially introduced with effect from 1.8.97; that a Notification No. 50/97-CE dated 1.8.97 was issued extending exemption to the goods manufactured prior to 1.8.97 and cleared on or after that date by a hot rerolling mill; that subsequently the introduction of compound levy scheme was postponed to 1.9.97 and consequently Notification No. 52/97 was amended by Notification No. 57/97 dated 30.8.97 extending exemption to the goods manufactured prior to 1.9.97 and cleared on or after that date from a hot re-rolling mill; that as there was no exemption of goods produced and cleared in August

1997, show cause notice were issued demanding duty at the rate of 15% of the goods cleared during August 1997; that in the mean time a Notification No. 4/2000 dated 1.1.2000 was issued allowing clearance of the goods at the rate of 300 MT manufactured during August 1997; that the Commissioner (Appeals) however, under the impugned order has allowed the appeals filed by the respondents holding that a Notification issued under Section 11 C of the Central Excise Act cannot have the effect of amending the rate of duty prescribed by the Notification issued under Section 5 A of the Central Excise Act. She, further, submitted that the duty had been demanded not on the basis of Notification No. 4/2000; that in fact Notification No. 50/97 as amended did not speak about the rate of duty applicable on the goods being manufactured by the respondents prior to 1.9.97 and cleared during August 1997; that thus, the Tariff rate 15% was applicable on the goods being cleared during August 1997; that Notification No. 4/2000 issued under Section 11C granted exemption in excess of amount of Rs. 300 PMT.3. We have considered the submissions of both the sides. Notification No. 50/97-CE dated 1.8.97 provided partial exemption from payment of duty in respect of the goods specified in the table below the Notification subject to the condition that the partial exemption shall apply only to the goods manufactured or produced prior to 1.8.97 and cleared on or after that date. Notification No. 50/97 was amended by Notification No. 57/97 dated 30.8.97. By this amendment, words, letters and figures 'First day of August 1997' appearing in Proviso to the Notification had been substituted by the words, letters and figures "First day of September 1997". After the amendment the proviso to the Notification reads as under: "Provided that the exemption contained in this notification shall apply only to the goods manufactured or produced prior to the First day of September 1997 and cleared on or after that date from an induction furnace unit, or as the case may be, a hot re-rolling mill." 4. It is the contention of the Revenue that the benefit of Notification No. 50/907 as amended was thus applicable to the goods manufactured prior to 1.9.97 and cleared on or after that date from an induction furnace. But there is no force in the submission. This amendment to the Notification was issued only on 30th August, 1997 and, therefore, any clearance made by the respondents during the month of August 1997 was duly exempted by the Notification as it stood before its amendment. We, therefore, find no merit in the appeals filed by the Revenue,

which are rejected.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com