Polyinks Pvt. Ltd. Vs. Commissioner of C. Ex.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-26-2003

Reported in : (2004)(165)ELT335TriDel

Judge : A T V.K., P Chacko

Appellant : Polyinks Pvt. Ltd.

Respondent : Commissioner of C. Ex.

Judgement :

1. The issue involved in this appeal filed by M/s. Polyinks Pvt. Ltd. is whether S.S.I. exemption can be availed of by them in one of their unit situated at Faridabad when they are not availing exemption under S.S.I. Notification in respect of goods manufactured in their unit at Hyderabad. 2. We heard Shri B.L. Narsimhan, learned Advocate for the Appellants and Shri O.P. Arora, learned Senior Departmental Representative for Revenue. The learned Advocate submitted that appellants are having two factories at Faridabad and at Hyderabad wherein they manufactured printing ink, printing ink solution, thinners, paper coating varnish etc; that they satisfy the conditions of the Notification No. 1/93-C.E. in respect of both the factories; that anticipating that the total value of clearance from both of their factories would exceed Rs. 75 lakhs and to avoid considerable administrative difficulties, they decided to avail the exemption under Notification No. 1/93 by paying concessional Central Excise duty on excisable goods cleared from Faridabad factory and to pay normal Excise duty in respect of excisable goods cleared from their Hyderabad factory; that the issue involved has

been settled by the Tribunal in the case of CCE, Ludhiana v. Munjal Gases [2003 (156) E.L.T. 1006 (T) = 2003 (55) RLT 402 CEGAT].

3. Learned Advocate has rightly submitted that the issue involved in the present Appeal has been settled by the Tribunal in the case of Munjal Gases wherein the Tribunal has held as under :- "4. We have considered the submissions of both the sides. The respondents are having two units - Unit No. I and Unit No. II. Merely because of the fact that Modvat credit is availed of by the respondents in Unit No. I will not make them ineligible from availing the exemption from payment of duty in respect of goods manufactured in Unit II. The word "by a manufacturer, from one or more factories" have been mentioned in Notification No. 1/93-C.E. for the purpose of computing the value of clearances in the preceding financial year. These words do not debar the respondents from availing of exemption from payment of duty in one unit while availing of Modvat credit in the other unit. Further this very issue stands decided in favour of the respondents in their own matter, Munjal Gases v. CCE, Chandigarh, Final Order Nos. 500-501/99-C, dated, 21-6-1999. It is also not the case of the Revenue that the said decision has been reversed by any higher forum. Accordingly, there is no merit in the Appeal filed by the Revenue and the same is rejected." 4. Following the ratio of the said decision, we set aside the impugned order and allow the Appeal.