

Bpl Display Devices Ltd. Vs. C.C.E.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-01-2004

Judge : A T V.K., M Bohra

Appellant : Bpl Display Devices Ltd.

Respondent : C.C.E.

Judgement :

1. These two appeals, filed by M/s. B.P.L. Display Devices Ltd., are posted today for hearing the stay applications. However, we take up the appeals themselves for disposal after staying the recovery of the entire customs duty for the reasons mentioned below.

2. Sh. rupesh Kumar, learned Advocate, submitted that the appellants, the manufacturer of Colour picture tubes, had imported parts of colour picture tubes at concessional rate of Customs duty under Notification No. 25/99 Cus. dated 28.2.99 as per the procedure prescribed under Customs (Import of goods at concessional rate of duty for manufacture of Excisable goods) Rules, 1996; that during the course of transporting the imported parts from the port of importation, some parts got damaged and as such were not suitable for use in the manufacture of colour picture tubes; that the Revenue has demanded the Customs duty in respect of those parts on the ground that the damaged imported parts, in respect of which benefit of notifications was availed of, had not been used in the manufacture of picture tubes and hence the benefit of notification is not available. The learned Advocate submitted that in their own case, reported as 2002 (147)

E.L.T. 912, the decision of the Tribunal to this effect has been set aside by the Hon'ble Supreme Court in Civil Appeal No. 7207 of 2002 dated 12.03.2004 following the decision in the case of C.C.E. (Import) vs M/s. NATIONAL Organic Chemical Industries Ltd. We also heard Sh. Vikas Kumar, learned S.D.R., who submitted that the appeals may not be decided as these are posted for hearing the stay petitions only and the fact of Hon'ble supreme Court's decision allowing their appeal has to be ascertained.

3. We have considered the submissions of both the sides. As the learned Advocate for the appellants has brought on record photo copy of the Supreme Court's decision in their own case allowing their Civil Appeal on the same issue, we set aside the impugned orders and allow both the appeals.

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