Commissioner of Central Excise Vs. Raymond Ltd. (Cement Div.)

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-05-2004

Reported in : (2005)(179)ELT492TriDel

Judge : A T V.K., P Bajaj

Appellant : Commissioner of Central Excise

Respondent : Raymond Ltd. (Cement Div.)

Judgement :

1. In this appeal filed by Revenue the issue involved is whether duty of Excise is demandable from M/s. Raymond Ltd. for production of proof of export beyond the period of 6 months.

2. When the matter was called no one was present on behalf of the Respondents. In fact the notice sent to them by the Registry of the Tribunal has been received back from the postal authorities with the remark 'Refused to accept'. We, therefore, heard Mrs. Charul Baranwal, learned SDR and perused the records. The learned SDR submitted that show cause notices were issued to the Respondents as they had failed to produce proof of export within 6 months as stipulated under Notification No. 48/94-C.E. (N.T.), dated 22-9-1994 in respect of export of cement to Bangladesh under bond under Rule 13 of the Central Excise Rules, 1944; that the Respondents had applied for permission for extended period of export after the expiry of the specified period of 6 months; that however, the permission of extension was granted after two months of issuing the show cause

notices; that the Asstt. Commissioner under the Order-in-Original Nos. 1-2/2002, dated 22-1-2002 dropped the demand of duty on the ground that the goods were either exported within the time limit or after getting permission from the jurisdictional Assistant Commissioner and proof of export submitted to the proper authority; that the Commissioner (Appeals) also under the impugned Order has rejected Revenue's appeals on the ground that that neither rule nor notification prescribe that extension should be granted before the expiry of six months' time and even otherwise the question of extension would arise only if the goods cannot be exported within 6 months' time and the application for extension would therefore be filed thereafter. The learned SDR, further, submitted that the application for extension of time should have been made before the expiry of a period of 6 months specified in Notification No. 48/94.

3. Notification No. 48/97-C.E. (N.T.), dated 22-94994 permits export of all excisable goods outside India except Nepal and Bhutan without payment of duty subject to the condition that the goods shall be exported within 6 months from the date on which these were cleared for export from the factory of manufacture or warehouse or within such extended period as the Collector of Central Excise may in any particular case allow. It has not been disputed by the Revenue that the Collector of Central Excise has allowed the extension of the period for the purpose of exporting the goods by the Respondents. On query from the Bench the learned SDR has also fairly mentioned that in respect of all cases of export involving in the present proceeding the proof of export has been produced by the Respondents. In view of these facts, and circumstances, particularly the fact that the Collector of Central Excise had extended the time limit specified in the Notification we find no merit in the appeal filed by the Revenue and reject the same.