Cce Vs. Venus Engg. Services

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SooperKanoon Citation : sooperkanoon.com/35364

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-24-2004

Reported in : (2004)(115)LC557Tri(Mum.)bai

Judge : J Balasundaram, A M Moheb

Appellant : Cce

Respondent : Venus Engg. Services

Judgement :

1. The respondents herein were availing proforma credit under Rule 56A on copper pipes and tubes, electric motors, aluminium sheets and coils, even after the deletion of these items from the coverage of proforma credit vide Notification No. 178/86 dated 1.3.1986, i.e. they continued to avail proforma credit on these items up to February, 1987 and on this basis the Adjudicating Authority disallowed the credit. However, the lower appellate Authority held that they were eligible to credit as they were protected by Rule 56A(8) which was introduced by Notification No. 91/86 CE dated 10.2.1986 which provides that Notwithstanding anything contained elsewhere in this Rule...the credit of duty paid on any material...shall be allowed if the credit of duty was allowable in respect of such material...under this rule or under a notification issued under Rule 8 of these rules requiring the procedure set out in Schedule to be followed, immediately before the commencement of the CETA. 1985.

The Commissioner (Appeals) held that in view of this amendment manufacturers availing benefit of Notification 95/83 (Proforma credit) were allowed to switch over automatically to Rule 56A which continued by virtue of Sub-rule 8 of Rule 56A.2. On hearing the ld. SDR and perusing the records and the relevant Rules, we find that there is no ground to interfere with the order of the lower Appellate Authority who has correctly extended the credit in terms of Rule 56A(8) and accordingly uphold the impugned order and reject the appeal.