Commissioner of Central Excise Vs. Blue Star Limited

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jul-20-2004

Judge : J Balasundaram, A M Moheb

Appellant : Commissioner of Central Excise

Respondent : Blue Star Limited

Judgement :

1. The respondents herein had filed classification list under Rule 173B of the Central Excise Rules, 1944 for: claiming classification under CETA sub-heading 8418.00 attracting Central Excise duty @ 20% ad valorem vide the Notification 53/93-CE dated 28/02/1993 and 46/94-CE dated 01/03/1994, The department was of the view that the products merit classification under CETA subheading 8415.00 attracting duty @ 30% ad valorem vide the Notification 46/94 dated 01/03/1994 since they are used in air-conditioning systems and therefore 10 show cause notices-cum-demand notices were issued proposing recovery of duty for the period February, 1994 to June, 1997 on the above basis. The Assistant Commissioner confirmed total duty demand of Rs. 1,41,01,000/- by approving the classification under CETA sub-heading 8415.00; the Commissioner (Appeals) set aside the adjudication order, accepting the claim of the assessees for classification under CETA sub-heading 8418.00; hence this appeal by the Revenue.

3. We find that the issue in dispute is no longer res integra, having been settled in favour of the assessees by the orders of the Tribunal in Carrier Aircon Limited v. CCE, Delhi-III 2001 (128) ELT 485 which has been followed in Indian Hotels

Limited v. CC, Chennai 2001 (134) ELT 451 and in the case of Lakeshore Hospital & Research Centre Ltd. v.CC, Kochi 2001 (135) ELT 1363. In the case of Carrier Aircon Limited the Tribunal has found that the prime function of chillers being to produce chilled water for using a refrigeration circuit, it is classifiable under Chapter heading 84.18 which covers: "refrigerators, freezers and other refrigerating or freezing equipment, ... other than air-conditioning machines of heading No. 84.15" The present case involves similar function of chilling water for injection moulding machines, drying machines, chemical plant, etc for process cooling. The ratio of the above decisions is therefore squarely applicable to the present case and following the ratio thereof we uphold the order of the lower appellate authority and reject the appeal of the Revenue.