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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-26-2004

Reported in : (2005)(98)ECC750

Judge : S Kang, N T C.N.B.

Appellant : Rajasthan Electronics and

Respondent : Cce

Judgement :

2. The appellant filed these appeals against the Order-in-Original passed by the CCE. The appellant claimed exemption under Notifications No. 3/01 and 6/02-CE in respect of goods declared as Dusk Dawn System.

3. The contention of the appellant is that the Dusk Dawn System is an electronic system for street lights comprising of electronic controller and Solar Photovoltaic Module. The street lights are automatically switched off based on the ambient light level which is sensed by the sensors installed therein. The Dusk Dawn System comprises of the SPV module and the penal housing. The contention is that whole system works on the solar energy and it is an energy saving device used for automatic switching of the street lights making proper use of grid power and increasing the life of the lamps by operating the street light from sunset to sunrise. The contention of the appellant is that the Commissioner of Central Excise in the adjudication order admitted the fact that Solar Photovoltaic module is a solar power generating system. In spite of this-finding, the benefit of notification was

denied. The contention is that as the whole system is working on the solar power, therefore, they are entitled the benefit of the notification.

4. The contention of the Revenue is that whole system is not on the solar power generating system. Only one part of the system can be called as 'Solar Power Generating System'. As the appellants are claiming the benefit of notification in respect of whole system, the benefit is rightly denied.

5. For ready reference the relevant portion of the Notification No.6/02 dt. 1.3.02 is reproduced below: The list 9 of the above notification covers Solar Power Generating System. The other Notification No. 3/01 is also similarly worded.

The adjudicating authority in the impugned order in para (vi) held as under: "I have examined the submissions of the assessee and found that the 'Solar Photovoltaic Dusk Dawn System' comprises of two parts namely (1) power generating system i.e. solar Photovoltaic System Module and (ii) Electronic Controller comprising of metal Cabinet equipped with three phase MCB's, MCB's contractors (Relays), Isolators, charge, control unit indicators and mechanical parts. The first part is "Power Generating Part" and the second part is 'application part' where the power so generated is used. This is also clear from the block diagram of the system given by the assessee in para 4 of their reply dt. 14/15.5.02. In their reply the assessee has categorically stated that in SPVDDS there is a component known as 'Solar Photovoltaic Module' which converts the solar energy into electrical energy necessary for operation of electronic controller.

Thus there is only one part of the system i.e. SPV module, which can be called as 'Solar Power Generating System'. The other part of the SPVDDS is application part where the power generated by the SPV module is consumed by which the Dusk Dawn System functions. Whereas the assessee has claimed that the whole SPV Dusk Dawn System is a 'Solar Power Generating System' which is incorrect and contrary to their own contention made in their above referred reply. The assessee has categorically admitted in their reply that the SPV Module absorbs the Solar energy and converts the same into electrical energy which is used for operation of electronic controller. Thus SPV module of the system is the only part which functions as 'solar power generating system'. The whole SPV Dusk Dawn

System can be called as a Solar Power Generating System".

6. The simple reading of the notification provides exemption to the non-conventional energy devices/system specified in List 9.

7. The adjudicating authority admitted the fact that Solar Photovoltaic Module is a Solar Power Generating System. We find that other parts are only panel housing consisting of controllers and switches. Hence, the whole system is a Solar Power Generating System and is entitled for the benefit of notification. Therefore, the denial of benefit of notification by the adjudicating authority is not sustainable. The impugned order is set aside and the appeals are allowed.

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