ipcl Ltd. Vs. Cce

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SooperKanoon Citation : sooperkanoon.com/36536

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Sep-16-2004

Reported in : (2004)(117)LC385Tri(Mum.)bai

Judge : J Balasundaram, Vice, S T S.S.

Appellant : ipcl Ltd.

Respondent : Cce

Judgement :

1. The duty demand has been confirmed on Light Ends and Heavy Ends as a result of denying the benefit of Notification No. 217/86-CE (captive consumption notification) on the ground that Light Ends and Heavy Ends were cleared for captive consumption without payment of duty for manufacture of HCL which in turn was exemption from payment of duty. It is explained to us by the appellant herein who are represented by counsel that in the course of manufacture of ultimate final product HDPE PVC which were admittedly cleared on payment of duty several intermediate products arise such as HCL, demineralised water, heavy ends and light ends arise. It is submitted that in the light of Board's circular No. 17/93-CX.8 dated 6.12.1993 wherein it has been clarified that exemption may be permitted under Notification No. 217/86 to more than one intermediate product used captively in the manufacture of final product provided such intermediate products are those as contained in the Table to the Notification No. 217/86 dated 2.4.1986 and Tribunal's order in the case of Rashtriya Ispat Nigam Ltd. v. CCE Vishakapatnam 2002 (150) ELT 743 : 2002 (103) ECR 44 (T) which has referred

to and relied on the circular and Sturdy Polymers Ltd. and Anr. 2004 (60) RLT 401 (CESTAT-Del.) in the context of Notification No.67/95 exemption is available. There is no dispute before us that the intermediate products in question are different from those contained in the Table to the Notification. Therefore, following the ratio of the above decisions and also the Board's circular, we hold that the duty demand is not sustainable. We also set aside the penalty imposed on the appellants. The appeal is thus allowed.