Rotomac Electricals Pvt. Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-24-2004

Reported in : (2005)(99)ECC727

Judge : S Kang, Vice, A T V.K.

Appellant : Rotomac Electricals Pvt. Ltd.

Respondent : Cce

Judgement :

2. The appellant filed this appeal against Order-in-Appeal passed by the Commissioner (Appeals). In the impugned order, the Commissioner (Appeals) held that the appellants are manufacturing Catalyst and were clearing the same without payment of duty. The demand was confirmed in respect of Catalyst cleared by the appellant.

3. The contention of the appellant is that they were not manufacturing the Catalyst but they were purchasing the same from the market and clearing with industrial varnish manufactured by them. The contention is that the Revenue had not produced any evidence to show that the appellants are manufacturing the Catalyst, therefore, the demand is not sustainable.

The appellant also relied upon the earlier decision of the Tribunal in their own case reported as CCE v. Rotomac Elctricals (P) Ltd., 2001 (130) ELT 927.

4. The contention of the Revenue is that the issue is the earlier case was in respect of the assessable value of industrial Varnish with Catalyst, a bought out item. In the present case, which is for subsequent period, the demand is raised on the ground that the appellants were manufacturing Catalyst. The Revenue relied upon the letter written by the appellant dated 26.11.97 where the appellant admitted that they were manufacturing Catalyst and also paid the duty of Rs. 51,712 for the period 3/97 to 10/97 and appellant also got registered with the Revenue for the manufacture of Catalyst. The contention of the Revenue is that demand is rightly made.

5. In this case the issue is whether the appellant were manufacturing Catalyst or not. The contention of the appellant is that they were purchasing the Catalyst from the market and clearing the same with the varnish. The appellant had not produced any evidence regarding the purchase of Catalyst. Even reply to show-cause notice was not filed before the adjudicating authority. In the letter relied upon by the Revenue, the appellant admitted that they were manufacturing Catalyst and also paid duty for certain period. The appellant also got registration with the Revenue for the manufacture of Catalyst. The case relied upon by the appellant in Rotomac Electricals (supra) is regarding a different period where the different issue has been decided, therefore, the ratio of the above decision is not applicable.

In the facts and circumstances of the present case that as the appellant failed to produce any evidence regarding the purchase of the Catalyst from the market and in view of the admission made by the appellant that they were manufacturing Catalyst, the appeal is dismissed.