Commissioner of Central Excise Vs. Marine Electricals Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-30-2004

Reported in : (2005)(182)ELT411Tri(Mum.)bai

Judge : S T S.S., T Anjaneyulu

Appellant : Commissioner of Central Excise

Respondent : Marine Electricals Ltd.

Judgement :

1. Revenue has filed this appeal against the order of Commissioner (Appeals) who vide the impugned order held as follows.

"In the instant case I find that the goods manufactured by the manufacturer M/s Marine Electricals have been supplied to M/s Anderson Marine Pvt Ltd Vasco-d-gama Goa vide all the five invoices referred in the SCN. Alongwith their reply No. 406 UA 4257 dated 28.1.98 to the SCN the assessee has also submitted a letter N. AMPL/ME/05/97/300 dated 13.5.97 Ms Aderson Marines Pvt Ltd Goa the receiver of the goods, wherein the said M/s Aderson Marines Pvt Ltd inter-alia has stated that they are the builders of the vessel for the Indian Navy. From the above said letter it is evident that the goods supplied by the manufacturer is used for building of a "ship" and are, therefore, considered as "Components" only for the construction of Navel Vessel ship. This fact also has not been denied by the manufacturer of the goods. On this aspect there is no dispute either from the manufacturer or from the receiver of the goods for utilisation of the goods in the construction of a Naval Vessel.

Coming to Notfn No. 64/95, the said Notification exempts the goods falling under Sr. No. 3 from whole of Central Excise duty which reads as under:3 All goods other than Cigarettes if supplied as Thus to qualify for the exemption of Central Excise duty the same should be "stores" for consumption "on board" a Vessel belonging to the "Indian Navy" or "Coast Guard". In the instant case the goods are used for construction of a "Vessel", thus can only be termed as "Components" for construction of a Vessel. Secondly, these Components are not consumed "on board" of a vessel. For "on board" consumption the "Vessel" should be in existence first and the goods needs to be sent "on board" of a vessel for consumption as stores subsequently. This is not so in the instant case. Since the goods are used for, construction of a Vessel thus further discussion regarding other conditions is not relevant.

From the foregoing I find that the goods manufacturer and cleared by M/s. Marine Electricals cannot be treated as "ship stores for consumption on board a vessel of Indian Navy and Coast guard". These are only Components for the manufacturer building of a Vessel of Indian Navy thus are not covered under the Purview of Sr. No. 3 of the Notf No. 64 95 dated 16.3.95 as are not meant for on board consumption.

Regarding production of the certificates from the Naval authorities of production Branch I find that Sr. No. 3 of the Notf does not stipulates for the same. Further, the Certificates also becomes irrelevant particularly so when the evidences do not support the same ".

2. When the matter was called none appeared for the respondent inspite of notice. We proceed to decide the matter after hearing the Ld SDR. On considering the material it is found - a) The terms used in notification 64/95 dated 16.3.98 as amended, cannot be interpreted to qualify for exemption equipment and parts brought in by the respondent who are manufacturing goods falling under chapter 89 i.e. Ship Boats etc. The material in question are supplies to a Ship building Yard for construction of Ships etc. The exemption based on interpretation of Naval Authorities opinion that any kind of supply made and procured by them would be

exempt under the provisions of this notification items supplied for war ship production cannot be upheld. b) The subject notification is for 'Ship Stores' to be consumed on board a ship. The word 'ship stores' has a special connotation signification in the Marine parlance. Such an understanding of the word in the notification, which is not defined, as to be as per the understanding of the people and the parlance of the persons for whom it is intended. 'Ship Stores' would therefore be only such entity which would get consumed by the ship screw maintainance or running of the ship and not for building of the ship, vessel or floating structure. The term consumed on board cannot be interpreted to include supplies made to for use in the dockyard, where keel of the ship is laid and the ship built.

c) In view of the finding the order of the Commissioner is set aside.