

Vindhya Cast Coaters Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-30-2005

Reported in : (2005)(192)ELT464Tri(Mum.)bai

Judge : S T S.S., T Anjaneyulu

Appellant : Vindhya Cast Coaters Ltd.

Respondent : Cce

Judgement :

1. After hearing both sides and on considering the condonatin of delay application has been filed in appeals against an impugned order which covered three show cause notices and one separate appeals were required to be filed as per the directions of the Registrar. Delay in filing the two subsequent appeals is condoned following the practice in such cases by this Tribunal.

2. After hearing, it is found that the issue involved in this case is interpretation of the clause used in paragraph 2 clause (iv) of notification 9/98 CE which uses the term "aggregate value of clearance of all excisable goods for home consumption by a manufacturer from one or more factories or from a factory by one or more manufacturers". This clause and term used, marked by does not use the words and terms "for and on behalf" as they were used in the notification No. 85/85, relied upon by the lower authorities following the decision in the case of CC, Bangalore v. Gammon Fan Chemicals Ltd. 3. In view of this marked changed in the terms used, in notification 9/98, we find that prima-facie, a case for waiver of

pre-deposit requirement and ordering stay of recovery has been made out, since a holding company and the subsidiary company cannot be considered to be same manufacturer.

4. The issue involved in this matter are of a recurring nature and requires out of turn resolution. Therefore, we would grant both sides the liberty to file such application.

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