Pushpaman Forgings Vs. Cce

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SooperKanoon Citation : sooperkanoon.com/38942

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-03-2005

Judge : A Wadhwa, S T C.

Appellant : Pushpaman Forgings

Respondent : Cce

Judgement :

1. The prayer in the application is for dispensing with the condition of pre-deposit of duty of Rs.75,76,339/- confirmed against the appellants in respect of flanges manufactured by them during the period January 2001 to March 2003 by denying them the benefit of notification no. 6/2000 -CE dated 01.03.2000.

2. Sr. No. 251 of the said notification exempts non-conventional energy devices/systems specified in the list 5 of the said notification. Sr.

No. 13 of list 5 mentioned `Wind Operated Electricity Generators, their components and parts thereof'. The appellants were clearing flanges under the said notification inasmuch as the same were to be used in the erection of towers/structures of Wind Operated Electricity Generators.

The demand has been confirmed against them on the ground that though towers are part of Wind Operated Electricity Generators, flanges being parts of towers cannot be extended the benefit of notification.

3. Shri Prakash Shah, Ld. Advocate has drawn our attention to the Tribunal's decision in the case of Collector of Central Excise v.Mahendra Engineering Works reported in 1993(67)ELT 134 (T) as also to the Tribunal's decision in the case of Commissioner of Central Excise, Calcutta v. Bansal Industrial Corporation reported in 2000(118)ELT 119(T) laying down that `a part of a part is a part of a whole' and as such would be covered by the exemption notification of the part. Ld.

Advocate has also assailed the impugned order on the point of limitation inasmuch as the show cause notice for the period January 2001 to March 2002 was issued on 03.08.2003.

4. After hearing Ld. DR appearing for the Revenue, we find the disputed issue is prima-facie covered by the above referred decisions of the Tribunal. Accordingly, we allow the stay petition unconditionally and fix the main appeal on 16.06.2005.