

Collector of C. Ex. Vs. Diamond Cement Files

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-23-1987

Reported in : (1989)(43)ELT711TriDel

Appellant : Collector of C. Ex.

Respondent : Diamond Cement Files

Judgement :

1. In response to notice of date of hearing, Shri K.G. Sooji, Consultant for the respondent by communication dated 14-10-1987 (received in the Tribunal on 19-10-1987) urges that this appeal involves the same issue as in case of Shubham Cement, Industrial Area, Kota (Appeal No. 1238/84-C parties Collector of Central Excise, Jaipur v. Shubham Cement, Industrial Area, Kota. It is also noticed that impugned order in both the appeals is the same). Shri Sooji further requests that the present appeal may kindly be decided on the basis of decision taken on the appeal filed against M/s. Shubham Cement, Industrial Area, Kota, heard by the Bench on 6-10-1987 without their having to appear personally to argue before the Tribunal today (23-10-1987).

2. In the aforesaid decision, the Tribunal held that to avail of concession as Mini - Cement plant under Notification No. 194/79, dated 30-5-1979 existence of one or more kilns on the plant is an essential requirement and in absence of the same, the requirement of explanation in the notification is not fulfilled and concession under the notification not available.

3. Following the said decision, we allow this appeal also and modify the order to the extent it relates to the present respondent and reject the respondents claim for exemption as Mini Cement plant. The appeal is allowed in the foregoing terms.

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