Commr. of Cus. Vs. Shimnit Machine Tools and

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SooperKanoon Citation : sooperkanoon.com/39392

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jun-17-2005

Reported in : (2005)(188)ELT302Tri(Mum.)bai

Judge : J Balasundaram, Vice-, A M Moheb

Appellant : Commr. of Cus.

Respondent : Shimnit Machine Tools and

Judgement :

1. The issue in this appeal relates to eligibility of benefit of concessional duty in terms of Serial No. 174 of table to the Notification 11/97-Cus., dated 1-3-97 to CD-R Blank (Recordable) imported by the respondent herein.

2. We have heard both sides. The assessment of the goods has been done under Customs Tariff Act sub-heading 8523.90 which covers "unrecorded media". Serial No. 174 of the table to the Notification covers Compact Disc - Read only Memory (CD-ROM). Therefore, the benefit under the Notification would be available only to recorded media and not unrecorded media. It is not the case of the respondent that the description of the goods under Serial No. 174 covers even unrecorded media. Since serial No. 174 is very clear, we find that the benefit thereunder is not applicable to the goods in question, since as per the respondent, what has been imported is unrecorded media, but which gets subsequently recorded.

3. We therefore, set aside the impugned order by which the benefit was extended on the basis of Board's clarification dated 26-5-99, which has been subsequently revised by Board's clarification (communication) dated 9-10-98, and allow the appeal of the Revenue.