

**Hindustan Structural Vs. Cce**

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**SooperKanoon Citation :** [sooperkanoon.com/39725](http://sooperkanoon.com/39725)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

**Decided On :** Jul-15-2005

**Judge :** A Wadhwa, S T C.

**Appellant :** Hindustan Structural

**Respondent :** Cce

**Judgement :**

1. After hearing both sides, we find that the issue involved is as to whether the appellants, who are manufacturing two different products, are entitled to the SSI exemption in respect of the second product up to clearance of Rs. 10.00 lakhs, even though the total clearance of both products have exceeded Rs. 30.00 lakhs.

2. The revenue has relied upon the Larger Bench's decision of the Tribunal in the case of Ramakrishna Engineering Works holding that once the overall clearances exceeded Rs. 30.00 lakhs irrespective of the clearances of one item being less than Rs. 10.00 lakhs, the exemption would not be available. However, we find that the said decision of the Larger Bench was taken note of by the Tribunal in the case of Solar Packaging Pvt. Ltd. v. Commissioner of Central Excise, Rajkot reported in 1999 (82) ECR 606 (Tribunal). In the said decision, it was observed that the Larger Bench' decision in the case of Ramakrishna Engineering Works is no longer a good law, inasmuch as the appeal filed by the revenue against the earlier decision in the case of EL. P.Em Industries, which was over ruled by the Larger Bench, was dismissed by the Hon'ble Supreme Court. The order being a short order is reproduced below: The issue involved in both these matters is

whether clearances of goods falling under one heading can be claimed up to the full limit of Rs. 15.00 lakhs when the clearances of goods under another heading had already exceeded Rs. 15 lakhs limit and had started paying duty. Revenue in these cases had disallowed the benefit of exemption in respect of clearance's of goods falling under one heading which had not yet exceeded the limit of Rs. 15 lakhs demanded thereon on the ground that the aggregate value of clearances under both the headings had exceeded Rs. 30 lakhs.

Although there is a judgment of the Larger Bench favouring the Revenue's point of view in the case of Rama Krishna Engineering Works v. Collector Central Excise . Ld. Advocates in both these matters point out that the said judgment of larger bench is no longer a good law, inasmuch as Revenue's appeal against the Tribunal's judgment in the case of Khalsa Pulp and Paper Industries Pvt. Ltd. v. Collector of Central Excise, Order No. 313/90-C, which took a contrary view has been dismissed by the Apex Court . The Tribunal in the case of Khalsa Pulp and Paper Industries Pvt. Ltd., relied on an earlier decision of the Tribunal in the case of EL.P.EM. Industries v. Collector of Central Excise . The said judgment of the Tribunal in the case of ELP.EM Industries was also taken note by the Larger Bench in Rama Krishna Engineering Works and the said judgment was over ruled by the Larger Bench. But now in view of the dismissal of Revenue's appeal in the case of Khalsa Pulp and Paper Industries Pvt. Ltd. the judgment of the Tribunal in the case of EL.P.EM Industries has been accepted by the Apex Court.

Consequently, the Larger Bench judgment of the Tribunal in the case of Rama Krishna Engineering Works (supra) is no longer a good law.

Consequently, following the Tribunal's judgment in the case of EL.P.EM. Industries, we allow both these appeals after setting aside the impugned orders, with consequential relief to the appellants herein.

3. For the reasons as detailed in the above order, we are of the opinion that it is the decision in the case of EL.P.EM Industries, confirmed by the Hon'ble Supreme Court, which would prevail over the judgment of the Larger Bench. Following the ratio of the same, we set aside the impugned order and allow the appeal with consequential relief to the appellants.

