

Pioneer Profiles Industries Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-07-2005

Judge : S Kang, Vice, N T C.N.B.

Appellant : Pioneer Profiles Industries

Respondent : Commissioner of Central Excise

Judgement :

2. Appellant as well as the Revenue filed appeal against the same impugned order. The adjudicating authority in the impugned order held that the activity undertaken by the appellant by way of cutting of M.S.Plates as per the requirement of their clients amounts to manufacture and confirmed the duty and allowed the benefit of small scale benefit exemption notification. The Commissioner however, restricted the demand to the normal period of limitation on the ground that the appellant was representing to the Revenue in respect of their processes undertaken and asking for opinion whether it amounts to manufacture or not. The revenue filed appeal against this finding and also for imposition of penalties.

3. After hearing both sides, we find that it is not in dispute by the appellant that they are undertaking the process of profile cutting of M.S. Sheets, M.S. plates as per the design and drawing supplied by their customer and these are further used in the manufacture of parts of machinery or machines/automobiles. The Tribunal in the case of Sanjay Indl. Corporation v. CCE Mumbai conversion of plain M.S. Plates into M.S. profiles, Rings, Circles, Channels and Angles, through process of

profile cutting amounts to manufacture. Further, the Hon'ble Punjab & Haryana High Court in the case of Hansa Metallics Ltd. v. Union of India after considering the decision of the Hon'ble Supreme Court held that the process of corrugation of plain metallic sheets amounts to manufacture.

In view of the above decision, we find no infirmity in the impugned order whereby demand is confirmed on the ground that activity undertaken by the appellant amounts to manufacture.

4. In the appeal filed by the Revenue, we find that as appellant was representing to the revenue for opinion on their activity whether it amounts to manufacture or not. Therefore, we find that no suppression can be alleged against the appellant and we find no merit in the appeal filed by the Revenue in respect of imposition of penalty also as there is no suppression with intent to evade duty by the appellant.

Therefore, we find no merit in the appeal filed by the Revenue. The same is dismissed. Both the appeals are dismissed.

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