

**Commissioner of Central Excise Vs. Model Exims**

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**SooperKanoon Citation :** [sooperkanoon.com/41186](http://sooperkanoon.com/41186)

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

**Decided On :** Dec-19-2005

**Judge :** A Wadhwa, N T C.N.B.

**Appellant :** Commissioner of Central Excise

**Respondent :** Model Exims

**Judgement :**

1. Being aggrieved with the order passed by the Commissioner (Appeals) revenue has challenged the same. We have heard the learned SDR and gone through the impugned order. For better appreciation, we reproduce the relevant paragraph of the Commissioner (Appeals) order: I have carefully gone through the grounds of appeal, the impugned Order-in-Original, relevant & governing case laws and records of personal hearing held on 20-1-04, In this regard, I observe that the appellants preferred this appeal on the ground that the duty charged on the value of spare parts & reconditioning charges may be waived off and requested to set aside the said Order-in-Original, On going through the impugned Order-in-Original, I find that the subject matter is of addition of value of spare parts only. There is no discussion of duty charged on the value of reconditioning charges in the impugned order. Since the appeal is preferred against the Order-in-Original No. 1/03 dated 6-1-2003 passed by the Joint Commissioner, 1CD Chakeri, Kanpur I, therefore, take up the matter of Spare Parts only. The Adjudicating Authority in his Order-in-Original had ordered that the goods were to be assessed by treating the Spare separately and not along with machine on the only ground that he had not come

across any practice in the ordinary course of trade to supply, compulsorily, new spare parts along with the second hand machinery. In this regard, I find that the Accessories (Condition) Rules, 1966 issued vide Notification. No. I8-CUS., dated 23-1-1963 clearly provides that accessories, spare parts and maintenance or repairing implements for, any article, when imported along with that article shall be chargeable at the same rate of duty as the article, if the proper officer is satisfied that in the ordinary course of Trade : (i) Such accessories, spare/parts and implements are compulsorily supplied along with that article, and (ii) No separate charge is made for such supply, their price being included in the price of article.

Thus, I hold that these Rules must be taken into consideration for assessment of Bill of Entry. Since no allegations have been made by the Department against the appellants regarding the value of the said machine or extra payment for Spares or description of goods/ the said machine including Spares is, therefore, to be assessed on the Invoice value.

2. As against the above, the revenue in the grounds of appeal has simply reiterated that Commissioner (Appeals) has wrongly accepted the invoice value and has wrongly held that the value of spares is not to be included in the value of the machine. After going through the impugned order of the Commissioner (Appeals), we find that he has relied upon the relevant rules of valuation and no infirmity is found therein. Accordingly, we reject the appeal filed by the revenue.

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