

**Dcm Engineering Products Vs. Commissioner of Central Excise**

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**SooperKanoon Citation :** [sooperkanoon.com/41261](http://sooperkanoon.com/41261)

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

**Decided On :** Dec-23-2005

**Reported in :** (2006)(106)ECC112

**Judge :** R Abichandani, M T K.C.

**Appellant :** Dcm Engineering Products

**Respondent :** Commissioner of Central Excise

**Judgement :**

1. The applicants are seeking stay from recovery of duty of Rs. 7,30,270/- and penalty of equal amount confirmed by the Commissioner under the impugned order.

2. It was argued that the applicants had not included the value of moulds and dies used by them in the manufacture of castings. The department had issued show cause notice to them demanding duty for the period of 5 years. Order was passed by the Commissioner which was challenged by them before the Tribunal. The Tribunal held that the period of 5 years is not applicable and the duty should be computed only for six months and the applicants should pay the duty. The Commissioner on the direction of the Tribunal computed the duty for six months which is in dispute under the impugned order. It was argued for the applicants that the Commissioner while computing the duty for six months has taken certain customers whose moulds and dies were not the subject matter of the original show cause notice and thus has wrongly calculated the duty chargeable from She

applicants. The applicants have agreed that the amount of Rs. 4,55,494/-has been correctly computed.

They have already deposited this amount. The balance amount is claimed to be not covered by the original show cause notice. This amount has been wrongly calculated in respect of those customers who were not the subject matter of the original show cause notice. The Revenue also could not show that the amount which is being contested was covered by the original show cause notice.

3. Therefore, keeping in view the dispute, we find that the matter requires detailed examination regarding the balance amount in dispute.

Therefore, we allow waiver of this amount and penalty for hearing of the appeal.

4. The appeal will come up for hearing in due course. The stay application is disposed of accordingly.

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