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Electrical and Allied Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-28-2005

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

Appellant : Electrical and Allied

Respondent : Cce

Judgement :

2. The appellant filed this appeal against the order-in-appeal passed by the Commissioner (Appeals) whereby demand was confirmed after denying the benefit of Notification No. 38/97-CE on the ground that the appellant had not complied with the conditions of the notification.

3. The contention of the appellant is that Notification No. 38/97-CE was issued on 27.6.97 and they filed necessary declaration for availing the benefit of Notification on 21.7.97 which was duly received in the office of Assistant Commissioner, Central Excise. In this letter they had given all the information such as name and address of the manufacturer, location of the factory, date of option and list of the commodities manufactured by them. In spite of this in the impugned order, the Commissioner (Appeals) held that the appellant had not complied with the conditions as laid down in the notification as all full particulars viz. name and address, location, description of goods, date of option etc. are not mentioned in the declaration. In these circumstances, the denial of benefit of notification on these grounds is not sustainable.

4. The contention of the Revenue is that appellant filed the option for availing the benefit of Notification No. 38/97. However, the appellant had not filed any revised declaration as provided under Rule 173B of Central Excise Rules which is mandatory, Therefore, the benefit of notification has been rightly denied.

5. We find that in the present case, the benefit of Notification No.38/97-CE dated 27.6.97 is denied in the impugned order(sic) to the appellant on the ground that the appellant had not informed In writing to Assistant Commissioner with the copy to the Supdt. in respect of address of manufacturer, location of factory, description of specified goods, date of option. We find that the appellant filed a declaration which was duly received in the office of Assistant Commissioner on 21st July 1997, In this letter, the particulars in respect of name and address, location of factory, date of option and description of goods manufactured by them is given in detail which is the requirement of the notification, therefore, denial of benefit of this notification on the ground that appellant had not filed any revised declaration under Rule 173B of Central Excise Rules is not sustainable. Consequently, the demand is set aside and appeal is allowed.

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