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**C.C. Vs. Alpine Industries Ltd.**

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**SooperKanoon Citation** : sooperkanoon.com/41311

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

**Decided On :** Dec-29-2005

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

**Appellant** : C.C.

**Respondent** : Alpine Industries Ltd.

**Judgement** :

1. Revenue has filed this appeal against the impugned order passed by the Commissioner (Appeals) whereby the benefit of Notification No.16/2000-Cus dated 1.3.2000 was allowed in respect of the imported Soyabean oil which was destroyed during transit.

2. Contention of the revenue is that the conditions of Notification No.16/2000-Cus are applicable to the vegetable oil imported for the manufacture of oil commonly known as Vanaspati oil or for refining. In the present case, as the respondents made import of the vegetable oil for manufacture of vanaspati oil and during accident in transit, one truck load containing 14.060 MTs. of soyabean oil were destroyed. The contention is that imported goods which were cleared at concessional rate of duty were not used for the intended purpose, therefore, the respondents are liable to pay duty.

3. We find that this issue is now settled by the Hon'ble Supreme Court in the case of BPL Display Devices Ltd. v. C.C.E., Ghaziabad - 2004 (174) ELT 5 (SC). In this case, the Hon'ble Supreme Court held that the inputs imported for manufacture of

specified goods after availing the benefit of concessional rate of customs duty and which are damaged during transit, the benefit of exemption notification cannot be denied.

Hon'ble Supreme Court held that there is no material distinction between loss on account of leakage or loss on account of damage.

Further, the Supreme Court held that object to grant exemption was only to debar those importer/manufacturers from the benefit of the notification who had diverted the products imported for other purposes and had no intention to use the same for manufacture of the specified items. In the present case, we find that there is no evidence on record to show that goods in question on which duty has been demanded were diverted for any other purposes. In these circumstances, we find no merit in this appeal. The same is dismissed.

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