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Delta Adhesive and Chemicals Vs. C.C.E.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-30-2005

Reported in : (2006)(105)ECC334

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

Appellant : Delta Adhesive and Chemicals

Respondent : C.C.E.

Judgement :

2. 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. 276/67 dated 21.12.67 on the ground that inputs received without payment of duty are not used in the manufacture of chemical formulation.

3. The demand was confirmed on the ground that appellants were manufactured out of the inputs, received without payment of duty, Rubber solution. The matter was remanded to the adjudicating authority to decide afresh after getting the samples retested. The Chemical Examiner found that as the sample is 17 years old and has been deteriorated, therefore, it is not possible to identify the nature and composition in the original state.

4. The appellant relied upon the opinion given by Indian Institute of Technology, Delhi whereby it has been opined that Rubber solution is a Chemical Solution. The

appellants produced the copies of invoices to show that they are marketing the product as chemical solution Therefore, the final product is a chemical formulation for industrial purpose and also produced another copy of the show cause notice, which shows that seized goods were chemical formulation for industrial purposes. In these circumstances, we find as the appellants are manufacturing chemical formulation out of the inputs received without payment of duty, therefore, are entitled to the benefit of the Notification No. 276/67 dated 21.12.67. The impugned order is set aside and the appeal is allowed.

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