South Eastern Coal Fields Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-20-2006

Judge : R Abichandani, N T C.N.B.

Appellant : South Eastern Coal Fields Ltd.

Respondent : Cce

Judgement :

1. The appellant is manufacturing excisable goods falling under Chapter 84 of the first schedule to the Central Excise Tariff Act 1985. Show cause notices were issued to the appellant proposing denial of the benefit of exemption under notification No. 63/95 dated 16^thMarch, 1995 on the ground that the workshop was not situated within the precincts of the mines of the appellant.

2. The Commissioner on the basis of the material on record held that the appellant was not eligible to the exemption from central excise duty under the said notification in respect of the goods manufactured and cleared from the workshop, which was registered under the Factories Act 1948. In the process, the Commissioner relied upon the decision rendered in the appellant's own case by the Tribunal and reported in 2001 (127) E.L.T. 554 (Tri. - Del.) in which the Tribunal, on the basis of the provisions of Section 2 (m) (ii) of the Factories Act which defined 'factory' by excluding a mine subject to the operation of Mines Act, 1952, held that the benefit of the said notification No. 63/95 was not available to the goods in question which were manufactured in the workshop.

3. The very decision on the basis on which the Commissioner denied the benefit of the said exemption notification to the appellant has been reversed by the Hon'ble Supreme Court in South Eastern Coalfield Ltd. reported in (2006) 6 Supreme Court cases 340. The Hon'ble Supreme Court considered the definition of the word "mine" under Section 2(1) (j) of the Mine's Act, 1952 and in the context of the expression "precincts of a mine", it has been held that the word "precincts" in the exemption notification would mean, the surrounding region or area, or surroundings or environs of a place. In the present case, the insertion of the appellant that the workshops were adjacent to the mine, has never been disputed.

4. The Hon'ble Supreme Court has disapproved the reasoning of the Tribunal in which it had on the basis of the definition of the word "factory" under Section 2 (m) of the Factories Act denied the benefit of the exemption under the said notification, on the ground that the workshop was registered as a "factory". In paragraph 14 of the judgment, the Hon'ble Supreme Court held that the registration of a mine under the Factories Act has nothing to do with the assessee's claim for exemption under the Central Excise Act. It was held that reference to the Factories Act was wholly erroneous since the case was covered by the Central Excise Act.

5. Following the ratio of the decision of the Supreme Court in South Eastern Coalfield Ltd. reported in (2006) 6 Supreme Court cases 340, the impugned order of the Commissioner is set aside. The appeals are accordingly allowed.

These three applications have been made by the parties for early hearing because the issue involved is covered by the decision of the Hon'ble Supreme Court in the appellant's own case in South Eastern Coalfield Ltd. v. Commissioner of Customs and Central Excise, M.P.. Having regard to the fact that the question involved is directly covered by the decision of the Hon'ble the Supreme Court in the appellant's own case, the appeals are ordered to be heard with consent of both the sides today itself. These applications are disposed of accordingly.

Since the clearance has been obtained from the Committee on Disputes in connection with these appeals, they stand restored to file. The applications are accordingly disposed of.