Crompton Greaves Ltd. Vs. Commissioner of Cen. Excise

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SooperKanoon Citation : sooperkanoon.com/46061

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-22-2007

Reported in : (2007)(122)ECC391

Judge : J Balasundaram, Vice

Appellant : Crompton Greaves Ltd.

Respondent : Commissioner of Cen. Excise

Judgement :

1. The proceedings initiated against the appellants herein for recovery of modvat credit of Rs. 3,07,544/- of duty paid on reconditioned machinery on the ground that reconditioned machinery is not covered as capital goods under Rule 57Q of the Central Excise Rules, 1944, was dropped by the Dy.Commissioner both on merits as wells on limitation.

The Revenue went up in appeal before the Commissioner(Appeals) only challenging the finding of the adjudicating authority on the eligibility to credit, and not on his finding that the demand was barred by limitation as there was no suppression on the part of the appellants. The lower Appellate Authority has accepted the Revenue's appeal by holding that reconditioned machinery is not specified as capital goods. Hence this appeal before the Tribunal.

2. I have heard both sides. The finding of the Dy.Commissioner that the appellants cannot be held to be guilty of any suppression, not having been challenged by the

Revenue before the lower Appellate Authority, still stands. Therefore, since the demand is held to be barred by limitation, and that portion of the adjudication order has attained finality, I am not required to record any finding on merits, viz. as to whether the credit is admissible to the appellants. In this view of the matter, I hold that, the demand against the appellants is time barred and set aside the impugned order and allow the appeal.