Collector of Central Excise Vs. R.S. Metals and anr.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-07-1989

Reported in : (1989)(24)LC443Tri(Delhi)

Judge : H Chander, B T S.K., G B Deva

Appellant : Collector of Central Excise

Respondent : R.S. Metals and anr.

Judgement :

1. At the outset of the hearing the learned advocates for the respondents had raised a preliminary objection that the authorisation by the Collector in terms of provisions of Section 35B(2) is not proper. In support of their arguments the learned advocates cited a judgment of the Tribunal in the case of CCE v. Asiatic Oxygen (sic).

2. Shri K. D. Tayal, the learned S.D.R. who had appeared on behalf of the appellant produced the original file where the Collector had passed the order for filing of the appeal, and the file was shown to the advocates. Shri Tayal stated that the authorisation is proper and pleads that the objection raised by the respondents may be overruled.

3. We have heard both the sides and have gone through the facts and circumstances of the case. The authorisation in both the appeals is similar. The authorisation in the case of M/s. Jaipur Metals and Electricals Ltd. is reproduced

below:Collector of Central Excise, Jaipur...Appellantv.I, Van Lalvela Collector, Central Excise, Jaipur hereby authorise Shri B.C. Chopra, Sr. Superintendent (Review), Central Excise Jaipur to file an appeal on my behalf to the Customs, Excise and Gold (Control), Appellate Tribunal, New Delhi in the case of M/s. Jaipur Metals & Electricals Ltd. Jaipur.

4. We have also gone through the original file of the Collector where the authorisation to file the appeal was given. We do not find any force in the preliminary objection raised by the respondents. The objection is overruled and we hold that in both the appeals there was proper authorisation in terms of Section 35B(2) and there was substantive compliance of the above section.