

Collector of Central Excise Vs. Indore Bottling Co.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-20-1990

Reported in : (2000)(115)ELT846TriDel

Appellant : Collector of Central Excise

Respondent : indore Bottling Co.

Judgement :

1. The question to be decided in this case is whether the respondents were entitled to the exemption under Notification No. 71/78-C.E., dated 1-3-1978. They filed an application claiming refund of duty of Rs. 13,220.20 in respect of aerated water cleared by the respondents during the period 1-4-1980 to 15-4-1980. They manufactured aerated water on behalf of the M/s. Parle (Exports) Pvt. Ltd., Bombay under franchise agreement. Their claim was that they are independent manufacturer and hence the benefit of exemption notification was available to them. The refund claim was rejected by the Assistant Collector of Central Excise, who did not accept the contention of the respondents. While disposing of the appeal filed by the respondents against the Assistant Collector's order, the Collector of Central Excise (Appeals) set aside the Assistant Collector's order and allowed the appeal. He held that the benefit of the notification was admissible to the respondents herein.

2. During the hearing before us today, none was present on behalf of the respondents although notice of hearing was issued to them on 22-6-1990. We have therefore, heard the learned JDR in the matter and we have also gone

through the records of the case. We observe that the issue is already decided by this Tribunal in order No. 285/286/89-D, dated 22-8-1989 following the judgments of Delhi and Bombay High Courts. We have no reason to take a different view than the view taken by the Tribunal in the decision cited supra. Following the said decision, we uphold the impugned order of the Collector (Appeals) and dismiss the appeal with the direction that the refund may be granted.

If otherwise admissible under Notification No. 71/78-C.E., dated 1-3-1978 on the basis of value of clearances.

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