

Western Coalfields Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-24-1991

Reported in : (1992)(40)LC592Tri(Delhi)

Judge : H Chander, Vice-, K T P.K.

Appellant : Western Coalfields Ltd.

Respondent : Cce

Judgement :

1. M/s. Western Coalfields Ltd. has filed an appeal being aggrieved from the order passed by the Collector (Appeals), New Delhi. Shri Satyasheel, learned advocate has appeared on behalf of the appellants.

He pleaded that the appellants are making various machinery parts from old and wornout iron and steel parts by first melting and converting them into black rough cast products which are then machined into the final finished machine parts namely: and pleaded that no manufacturing activities is involved and the goods so manufactured are not marketable. In support of his arguments he cited a decision in the case of Bhor Industries Ltd. v. CCE, Bombay reported in 1989 (21) ECR 273 (SC) : ECR C 1349 SC. He also cited a decision in the case of CCE v. Ambalal Sarabhai Enterprises , and also Maize Products v. CCE reported in 1987 (11) ECR 532 (Cegat SB-D). He pleaded the acceptance of the appeal.

2. Shri S.K. Sharma, learned JDR has appeared on behalf of respondent.

He pleaded that there is no evidence on record to the effect that where the goods are marketable or not and as such the matter be remanded to the adjudicating authority for examination on this issue. In reply Shri Satyasheel, learned advocate does not object to the prayer of the learned JDR.3. We have heard both sides and have gone through the facts and circumstances of the case. It is not disputed that the appellants are making following items: There is also no evidence on record whether the castings are marketable or not. In view of the decision of the Supreme Court in the case of Bhor Inds. Ltd. and Ambalal Sarabhai (supra) we are of the view that the marketability of the product has to be established. Keeping in view the submissions of both sides we set aside the impugned order and remand the matter to the adjudicating authority having jurisdiction to readjudicate the same in accordance with law. The adjudicating authority shall examine the marketability aspect. We further direct that the adjudicating authority shall observe the principle of natural justice and shall grant a personal hearing to the appellants. Since the matter is very old we shall appreciate if the adjudicating authority readjudicate the matter within 3 months from the date of receipt of this order. The appeal is allowed by way of remand.

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