Universal Filteration Co. Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-05-1993

Reported in : (1994)(69)ELT77Tri(Mum.)bai

Appellant : Universal Filteration Co.

Respondent : Collector of Central Excise

Judgement :

1. For hearing the applicant's appeal on merits they are required to deposit Rs. 6,86,573/- towards duty and a penalty of Rs. 60,000/-. The plant and machinery also have been ordered confiscation but allowed redemption on payment of a fine Rs. 30,000/- vide order in original No.14/93, dated 26-2-1993.

2. After hearing both sides we find that the issue relates to denial of small scale exemption by including the value of the parts of diesel engines such as filter head and filter element, which go into the final product, namely filter assembly, which are cleared under Chapter X Procedure in terms of Notification 217/85. The prima facie ground urged by Shri Kulkarni, the learned Chartered Accountant, is that Notification No. 217/85 extends exemption to all parts of diesel engines without naming any particular part. Even assuming the worst against them, filter head and filter elements, which have been cleared captively and used in the manufacture of filter assembly and the entire assembly has been cleared under Chapter X Procedure, they would be eligible for exemption under Notification 217/85 and hence their value is not to be included for the purpose of denying this small scale exemption. In this context, he referred to the decision of the Tribunal reported in

1993 (21) ETR 775 to point out that in the case of parts of power driven pumps, stamping and lamination used in starters and rotors were also held to be parts, eligible for exemption. In other words he pleaded that parts of parts of diesel engines are also covered by Notification No. 217/85. These prima facie grounds urged apart from any other consideration, appeal to us. We direct the applicants to furnish only a personal bond covering the duty amount within a period 4 weeks from the date of communication of this order and reporting compliance within 5 weeks failing which their appeal is liable to be dismissed. On furnishing the personal bond there shall be stay and waiver of the duty and penalty. The Plant and machinery ordered confiscation should not be disposed of and the normal process of production should not be interfered with.