

**J.G. Engineers Vs. Collector of Central Excise**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Jan-24-1994

**Reported in :** (1994)LC609Tri(Delhi)

**Appellant :** J.G. Engineers

**Respondent :** Collector of Central Excise

**Judgement :**

1. Since a common issue is involved, therefore, a common order is being passed.
2. The appellants herein are manufacturers of power driven pumps. For that purpose they also manufacture the parts of power driven pumps for being captively used in their final product, as aforesaid. It is not disputed that the appellants herein are entitled to the benefit of Notification No. 175/86 so far as the clearances of power driven pumps are concerned. The department, however, wants to levy duty on the value of production of parts of power driven pumps.
3. Appellants' learned advocate, Shri Alok Arora, submits that this is not permissible for the department to do so in view of Explanation HI to Notification No. 175/86. For proper appreciation, we reproduce Explanation III to the said notification :- "Explanation III. - Where any specified goods (hereinafter referred to as inputs) are used for further manufacture of specified goods within the factory of production of inputs, the clearances of such inputs for such use shall not be taken into account for the purposes of calculating the aggregate value of clearances under this notification." He also relies on Tribunal's judgment in the case of Dukart

& Co. (P) Ltd. v. CCE, Calcutta, reported in 1987 (29) E.L.T. 446 (Tribunal).

4. Learned JDR, Shri K.K. Dutta, on the other hand, reiterates the findings of the lower authorities. He submits that the lower appellate authority has not discussed the question of applicability of Explanation III to Notification No. 175/86. He submits that the only discussion is about applicability of Notification 217/86. From this i.e. non-applicability of the said notification is obvious because the final product i.e. power driven pumps are fully exempted under Notification No. 175/86 and therefore, the benefit of Notification No.217/86 cannot be extended to the parts of power driven pumps even though 217 captively used in the manufacture of power driven pumps.

4.1 In his rejoinder, learned advocate submits that the plea of applicability of Explanation III to Notification No. 175/86 was duly taken before the Collector (Appeals). He also submits that it is a pure question of law whether Explanation III is applicable in such circumstances or not.

5. We have perused the facts and circumstances of this case, as given in the impugned order of the Asstt. Collector as well as of the lower appellate authority. We have also gone through the Notification No.175/86. Effect of Explanation III in the said notification is very clear that the value of clearances of inputs captively used in the manufacture of final products is not to be taken into account for the purpose of determining the duty liability of the appellants in respect of the specified goods. Reliance placed by the learned advocate on Dukart & Co. (P) Ltd. is also correct in the facts and circumstances of the case. Question of duty liability on parts of power driven pumps captively used within the factory of production does not arise.

Accordingly, we do not see any merit in the case of the Revenue. Hence we allow the appeals with consequential relief to the appellants.

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