SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Manko Industries Vs. Collector of Central Excise

Manko Industries Vs. Collector of Central Excise

SooperKanoon Citation : sooperkanoon.com/7609

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-23-1994

Reported in : (1994)(73)ELT375TriDel

Appellant : Manko Industries

Respondent : Collector of Central Excise

Judgement :

1. M/s. Manko Industries have filed this appeal against order in appeal dated 2-12-1993 passed by the Collector of Central Excise (Appeals), Chandigarh upholding the order in original dated 29-8-1993 passed by the Asstt. Collector of Central Excise, Jalandhar holding them to be ineligible for the benefit of small scale industry exemption in terms of Notification No. 175/86 for washers manufactured and cleared by them. The benefit under the said exemption was denied to them on the ground that the Registration Certificate issued to them by the Directorate of Industries, Punjab mentioned only G.M. Bushes. The Collector (Appeals) upheld this finding of the Assistant Collector observing that the conditions laid down under Para 4 of the Notification in question that the exemption contained therein shall be applicable to the unit registered with the Directorate of Industries obviously meant that the unit as well as the product were to be indicated in the SSI Certificate. Their registration for manufacture of washers was only from 14-6-1993. For the period prior to this, manufacture of washers was not covered. The benefit of exemption was held to be not admissible for washers prior to 14-6-1993. On the above basis, seeing no ambiguity in the order of the Assistant Collector, the

appeal was rejected and the order of the Assistant Collector upheld 2. In the appeal before us, the appellants have contended that what is required in the Notification is the registration of the Unit as a Small Scale Unit and that it is not necessary that the SSI Certificate should mention the product for which exemption has been sought. Reliance has been placed for this contention on a decision of Collector of Central Excise (Appeals), Trichy in Arc Fire Ferro Alloys (P) Ltd., reported in 1992 (57) E.L.T. 362. It has been further submitted in the appeals that the impugned order is contrary to the decision of the Tribunal in Goa Bottling Pvt. Ltd. v. Collector of Central Excise, reported in 1993 (67) E.L.T. 721 (Tri.) wherein it has been held that the benefit under Notification 175/86 cannot be denied when the registration certificate is issued with retrospective effect. In their case the additions of the item "washer" in their Registration Certificate has been made with retrospective effect from June, 1986. Further submissions have also been made in the appeal (1) regarding the applicability of the exemption notification to them without reference to the registration with the Directorate of Industry in view of their having availed exemption the previous year; and (2) time-barred nature of the notice issued on 22-6-1993 for the clearances during October 1992 to December 1992.

3. It has been submitted that these points which had not been raised earlier may be permitted to be raised as additional grounds as these are questions of law which are based on facts on record.

4. Shri K.R. Chopra, learned Consultant appeared for the appellants.

Besides reiterating the points raised in the appeal, he pointed out that the Central Board of Excise and Customs had issued a Circular No 18/93-Ex. 6 dated 24-12-1993 which has been reproduced in 1994 (69) E.L.T. T7. He submitted a photocopy of the same. He pleaded that his submissions may be accepted and the appeal allowed.

5. In his reply, Shri K.K. Dutta, learned Departmental Representative spoke in support of the impugned order and pleaded that the appeal be dismissed.

6. We have considered the submissions. We have perused the record. We find that the matter is squarely covered by the Board's circular dated 24-12-1993. a copy of which has been submitted by the learned Consultant. It has been clarified therein that once a factory is registered with the Director of Industries or the Development Commissioner as a small scale industry it is not necessary for such SSI unit to get each and every product manufactured by it endorsed in its registration certificate in order to get the SSI exemption for all the items manufactured by it. In the present case, the registration certificate contains the endorsement "Additions made on 14-6-1993 ...

washer, with effect from 6/86 as per excise returns. The Certificate under which the appellant has been registered as a small scale industry is applicable to them for all their products manufactured by them and not with reference to particular products only. It is nobody's case that by manufacturing items not mentioned in the Registration Certificate originally issued to them, they have graduated from a Small scale industry to a large scale unit not eligible for the small scale industry exemption. In the circumstances, we accept the submissions raised by the learned Consultant Shri Chopra about their eligibility for small scale exemption and allow the appeal. The operative portion of the appeal was announced in the Court at the end of the hearing.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com