

G.E. Apar Lighting (P) Ltd. Vs. Collector of C. Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jan-10-1995

Reported in : (1995)(77)ELT399Tri(Mum.)bai

Appellant : G.E. Apar Lighting (P) Ltd.

Respondent : Collector of C. Excise

Judgement :

1. The appeal has been listed for the limited purpose of maintainability, since the appeal has been filed against a communication signed by the Assistant Collector of Central Excise (Technical), H.Q. Office bearing the date 25-8-1994. In this communication, referring to the appellants' letters dated 13-5-1994, 1-6-1994 and 8-8-1994, they are informed that the Collector of Central Excise is pleased to grant them permission for destruction of excisable goods and also order reversal of the Modvat credit availed on the inputs contained in the said goods. Shri Christian, the Id. advocate pleads that though this communication is signed by the Assistant Collector, he conveys the order or decision of the Collector, which has caused prejudice to them and hence the appeal is maintainable.

2. After hearing both the sides, we find that though the communication indicates that the Assistant Collector conveys the decision of the Collector of C.Ex. Ahmedabad, it is not a speaking order and such order cannot be considered on merits by the Tribunal, in the absence of detailed reasonings for disallowing the Modvat credit on duty paid inputs used in goods allowed for destruction. In the circumstances, the Collector should pass a speaking order by observing the

principles of natural justice and it is open for the appellants to approach the Tribunal with the order of the Collector. In view of the aforesaid position, the appeal may be treated as disposed of.

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