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Collr. of C. Ex. Vs. Vashisht Iron and Steel Rolling

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-23-1995

Reported in : (1996)(83)ELT168TriDel

Appellant : Collr. of C. Ex.

Respondent : Vashisht Iron and Steel Rolling

Judgement :

1. This is an appeal filed by the Department against the impugned order dated 29-3-1985 passed by the Collector of Central Excise (Appeals), New Delhi.

2. Briefly stated the facts of the case are that the respondents who are engaged in the manufacture of M.S. Keys (Railway Track Material) falling under T.I. 68 were served with show cause alleging inter alia that they were not eligible for exemption under Notification No.89/79-C.E., dated 1-3-1979 and Notification No. 105/80-C.E., dated 19-6-1980 on the ground that investment made on plant and machinery installed in their factory from time to time was in excess of Rs. 10 lacs. After usual adjudication proceedings the Assistant Collector held that total investment of the appellants' unit on plant and machinery during the material period has exceeded Rs. 10 lacs. He, therefore, confirmed the demand of duty amounting to Rs. 71,034.17 Paise. Being aggrieved by the order passed by the Assistant Collector, the appellants preferred an appeal before the Collector (Appeals).

Collector (Appeals) accepted the appellants' contention that value of certain machinery which had not been utilized and had been removed from the factory or not removed but had been rendered unfit for use, should not be included.

3. Appearing on behalf of the appellant Shri RK. Jain stated that finding of the Collector (Appeals) that for the period March 1980 for which Notification No. 89/79-C.E., dated 1-3-1979 was relevant, is not sustainable since the said Notification provided that for the purpose of computation of the value of the capital investment made on plant and machinery installed in the unit, only face value of the investment made from time to time was to be taken into account. He contended that in these circumstances, aggregate value of the investment made on different items of plant and machinery was to be taken into account-without granting any abatement on account of plant and machinery that might have been rendered unfit for use.

4. No one has appeared on behalf of the respondents. We have, therefore, proceeded to decide the case on the basis of the submissions made on behalf of the appellant and the material available on record.

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