

Commissioner of Central Excise, Pondicherry Vs. Trinity Engineering

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Chennai

Decided On : Dec-21-2010

Judge : The Honourable Ms. Jyoti Balasundaram, Vice-President & the Honourable Dr. Chittaranjan Satapathy, Technical Member

Appeal No. : Appeal No.E/81/2004 [Arising out of Order-in-Appeal No.513/2003 (P) dated 10.10.2003 passed by

Appellant : Commissioner of Central Excise, Pondicherry

Respondent : Trinity Engineering

Advocate for Pet/Ap. : Shri T.H.Rao, SDR. Shri M.Kannan, Advocate.

Judgement :

Per Jyoti Balasundaram

In this case, the Asst. Commissioner of Central Excise confirmed a demand of Rs.13,047/- on oil separator, agitator, blower, accumulator, can dump and can trap holding that they were parts and components and therefore were excluded from the coverage of Exemption Notification No.1/93-CE dt. 28.2.93 (SSI benefit notification). The Commissioner (Appeals) set aside the demand and penalty imposed by the adjudicating authority; hence this appeal by the Revenue.

2. On hearing both sides, we find that by an order No.10/95 dt. 19.7.95, the Deputy Commissioner had classified the items in dispute under CET sub-heading

8479.10 and held that they were not parts/components of refrigeration/cold storage machinery and that they have individual functions which are not similar to that of the machinery under reference. This order was not taken up in appeal by the Revenue and therefore the finding that the goods in question were neither parts nor components of refrigeration/cold storage machinery has become final. This being so, the Commissioner (Appeals) has rightly held that the goods are liable to SSI exemption as the very same items were the subject matter of order of July 1995 which was not challenged. We, therefore, uphold the impugned order extending the benefit under the SSI notification, and reject the appeal.

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