

Collector of Central Excise Vs. Walchandnagar Indus. Ltd.

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SooperKanoon Citation : sooperkanoon.com/9991

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-09-1996

Reported in : (1996)(88)ELT666TriDel

Appellant : Collector of Central Excise

Respondent : Walchandnagar Indus. Ltd.

Judgement :

1. In this appeal filed by the Revenue, the matter relates to the interpretation of exemption Notification No. 118/75-CE., dated 30-4-1987. Under this Notification No. 118/75-C.E. goods classifiable under Item No. 68 when used for captive consumption enjoyed the full exemption from Central Excise duty. This exemption was, however, not available to complete machinery which was used for the production or processing of the goods. The respondents M/s. Walchandnagar Indus. Ltd. were engaged in the manufacture of machinery parts which were used by them as replacement of certain components of complete machinery installed and working. The Assistant Collector of Central Excise, Pune, held that they were eligible for the said exemption. On appeal by the Revenue, the Collector of Central Excise (Appeals), Bombay, confirmed the order passed by the Assistant Collector. The Revenue had come in appeal on the ground that mill rollers and shells were cleared to sugar division for replacement of parts of their sugar plant. The sugar plant as such was not cleared on payment of duty and according to the Revenue the exemption under Notification No. 118/75-C.E. was not applicable to them.

2. The matter was posted for hearing on 9-9-1996, when Shri P.K. Jain, SDR, explained the case of the Revenue. On behalf of the respondents, a request for adjournment was made by Shri S.K. Malik, Liaison Manager.

As Shri P.K. Jain, SDR, explained the facts of the case, we consider that this matter could be settled without any arguments on behalf of the respondents. Accordingly, we proceed to deal with this matter on merits after hearing Shri P.K. Jain, SDR.⁴ We have carefully considered the matter. The respondents were engaged in the manufacture of machinery parts which were classifiable during the relevant time under Item No. 68 of the Tariff. For goods falling under Item No. 68, there were a number of exemption schemes including one for captive consumption. Under Notification No.118/75-C.E. the goods classifiable under Item No. 68 and used in the factory of manufacture enjoyed full exemption from duty. This exemption was, however, not available to complete machinery used for the manufacture or processing of the goods. The goods involved were not complete machinery, but were only machinery parts. They were not covered by the exclusion clause. There is no dispute that these machinery parts were used in the factory in the manufacture of complete machinery. The arguments that the complete machinery was not cleared from the factory had no relevance, as it is nowhere provided in the Notification No. 118/75-C.E., that the goods in which the raw material or component parts were used should have been cleared on payment of Central Excise duty. The notification only provides that they should be used in the factory of production and they should not be complete machinery.

5. In view of the above position, we do not find any infirmity in the view taken by the Assistant Collector of Central Excise, Pune, as original authority, and the Collector of Central Excise, Bombay, as the appellate authority.

6. In the result, the appeal filed by the Revenue has no merits and the same is rejected.