(2012) 03 AP CK 0076

In the Andhra Pradesh High Court

Case No : Central Excise Appeal No. 28 of 2012

C.C.E. and C., Hyderabad — APPELLANT

Vs

Creative Indus (Rajahmundry) P. Ltd. — RESPONDENT

Date of Decision : 28-03-2012

Acts Referred:

Citation : (2012) 282 ELT 349

Hon'ble Judges : Madan B. Lokur, C.J;Sanjay Kumar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Madan B. Lokur, C.J.—The Revenue is aggrieved by an order dated 17-6-2008 passed by the Customs, Excise and Service Tax Appellate Tribunal, Bangalore in Appeal No. C/244/2006 [2008 (228) E.L.T. 379 (Tribunal)]. The respondent entered into project contracts for importing Photo Composing System and Agfa Type Setting equipment. The respondent availed the benefit of Customs Notification No. 90/94-Cus., dated 1-3-1994 under the Project Import Regulations, 1986 (hereinafter referred to as "the Regulations"). The goods were cleared following the normal procedure. According to the respondent, the goods were installed, but due to some labour problems, a lock out was declared and the company later on became defunct.

2. After a gap of about ten years, the Revenue required the respondent to produce an Installation Certification in terms of Regulation 7 of the Regulations. This regulation reads as follows :

The importer shall within three months from the date of clearance for home consumption of the last consignment of the goods or within such extended period as the proper officer may allow, submit a statement indicating the details of the imported goods together with necessary documents as proof regarding the value and quantity of the goods so imported in terms of this Regulation and any other documents that may be required by the proper officer for finalization of the contract.

3. The Tribunal held, on an appeal filed by the respondent that there is no requirement of producing any Installation Certificate in terms of Regulation 7 of the Regulations. Learned Counsel for the Revenue is also not in a position to enlighten us on this issue.

4. The Tribunal held that the aforesaid Regulation is not a condition for determining the eligibility of the concessional rate of duty. It also held that there is nothing to suggest that the equipment was not installed.

5. We find no reason to take a view different from that expressed by the Tribunal more particularly since there is no requirement of an Installation Certificate to be furnished by the respondent to the Revenue in the language of Regulation 7 above.

6. We see no merit in this appeal.

7. No substantial question of law arises for consideration in this appeal. The appeal is accordingly dismissed.