(2003) 09 SC CK 0081

In the Supreme Court Of India

Case No : Civil Appeal No.

WPIL Ltd. APPELLANT

Vs

Commissioner of Central Excise, Meerut RESPONDENT

Date of Decision : 18-09-2003

Acts Referred:

Citation : (2003) 111 ECR 8 : (2003) 158 ELT 430

Hon'ble Judges : S. Rajendra Babu, J;G. P. Mathur, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. The question raised in this appeal is that the appellant who is manufacturer of submersible pumps is entitled to claim exemption from payment of duty in terms of Notification No. 8/96, dated 23-7-1996 and similar notifications issued from time to time.

2. Three show cause notices were issued to the appellant. In the show cause notices issued it is not very clear as to what exactly are the goods which the department wants to bring for taxation as in Notice to show cause No. 47/G. Gb-1/97, dated 24-7-1997 the department has stated as follows :

".......Apart from above items party is also manufacturing Copper Bronze Casting under Chapter sub-heading No. 7419.91 and clearing it for home consumption on payment of duty and also clearing without payment of duty within the factory for manufacture of Submersible Pumps and Parts thereof....."

and in the same Notification at other places the department has stated as follows :

"..... Thus the Copper Bronze Casting being a intermediate product failing under Chapter sub-heading No. 7419.91 appears dutiable since the general exemption under Notification No. 8/96, dated 23-7-1996 (now 4/97, dated 1-3-1997) as claimed by party does not cover the items of Chapter No. 74...."

"As such the party have issued 15,450.500 kgs. of Copper Bronze Casting without payment of duty for manufacture of parts of pump during the period February 1997 to May 1997 as detailed below, on which the duty @ 15% Adv. Amounting to Rs. 5,79,394.00 have not been paid by the party..,"

3. It is not very clear either from the notices or from the reply filed by the appellant as to what exactly the position is though the contention put forth before us is that in respect of some parts which are captivity used within the factory on which no duty is paid while it is used at another unit of the factory elsewhere duty is already paid. Neither the orders made by the authorities are clear nor such a case is put forth before the Tribunal and, therefore, to do complete justice in the matter we set aside the orders passed by the authorities and the Tribunal and remit the matter to the assessing authority for fresh consideration in accordance with law. However, it is open to the appellant to file further reply to the show cause notices issued. The appeals are allowed accordingly.

