

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD**

E/209/2008-EX[DB]

(Arising out of Order-in-Appeal No.120/CE/APPL/NOIDA/07 dated 30.10.2007
passed by Commissioner(Appeals), Customs & Central Excise, Meerut-II.)

M/s. IL JIN Electronics (I) Pvt.Ltd.

...APPELLANT(S)

VERSUS

Commissioner of Central Excise, Noida

RESPONDENT (S)

APPEARANCE

Shri Kartikyan Narain (Advocate) for the Appellant (s)
Shri Sandeep Kr. Singh (Dy.Commr.) (A.R.) for the Revenue

CORAM:

MRS. ARCHANA WADHWA, HON'BLE MEMBER(JUDICIAL)
SHRI ANIL G. SHAKKARWAR, HON'BLE MEMBER(TECHNICAL)

DATE OF HEARING/DATE OF DECISION : 10.12.2018

FINAL ORDER NO.72831/2018

Per ANIL G. SHAKKARWAR :

After hearing both sides duly represented by Shri Kartikyan Narain learned Advocate for the appellant and Shri Sandeep Kr. Singh (Dy.Commr.) (A.R.) for the Revenue, we note that there are two issues involved in the present appeal. One issue is related to recovery of duty of Customs under Rule 8 of Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 in respect of the imported machinery. The subject machinery was imported for manufacture of excisable goods. The contention of

Revenue was that since the appellant has shifted his premises from old place of manufacture to a new place of manufacture, the said Customs duty was recoverable. The other issue involved is when the factory was shifted from old premises to new premises, the goods which were manufactured and on which Central Excise duty was not paid were shifted to new premises. The contention of Revenue is that said goods were cleared to new premises without payment of duty.

2. We have gone through the record of the case and note that there is no dispute that from the new premises, the goods which were manufactured in the old premises and shifted to new premises were cleared after payment of appropriate Central Excise duty. Therefore, in respect of finished goods there is no case for Revenue. We also note that in respect of the Customs duty on imported machinery we note that the condition for concessional rate of Customs duty was that the machines should be used for manufacture of excisable goods. From the proceedings we did not come across any evidence to establish that the machines were not used for the purpose for which the concessional rate of duty was allowed. Therefore we do not find any case in favour of the Revenue in respect of Customs duty. We therefore set aside the impugned order and allow the appeal. The appellant shall be entitled for concessional relief, as per law.

(Dictated and pronounced in the open Court.)

SD/
(ARCHANA WADHWA)
MEMBER (JUDICIAL)

SD/
(ANIL G. SHAKKARWAR)
MEMBER(TECHNICAL)

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