

M. Guru Controls P. Ltd. Vs. Commissioner of C. Ex.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-18-1997

Reported in : (2000)(115)ELT811Tri(Mum.)bai

Appellant : M. Guru Controls P. Ltd.

Respondent : Commissioner of C. Ex.

Judgement :

1. Penalty of Rs. 1.50 lacs on the first applicant and Rs. 1.00 lac each upon the other two applicants.
2. I have heard both sides. Stay applications restored for various grounds in the application.
3. The main contention of the Advocate for the applicants is that the overdrawal in the ledger was on account of negligence, in that the person who was entrusted to deposit the money failed to do so. This is answered by the Departmental Representative pointing out that the excise clerk has in his statement implicated the management of the company which compelled him to take the credit, despite the lack of adequate balance in the P.L.A account.
4. The claim of negligence prime facie fails for the reason that even TR6 challans have not been prepared and it was only when the department came to know to the facts that the company took action to (sic) the situation. I however find a prima facie case in favour of G. Hazara in the absence of evidence of any specific act

committed by him. I therefore direct that on each of the first two applicants depositing Rs, 55,000/- within two months from today waiver of balance of penalty is granted and its recovery stayed.

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