

Haryana State Electronics Dev. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-05-1998

Reported in : (1999)(82)LC745Tri(Delhi)

Judge : J Balasundaram, A T V.K.

Appellant : Haryana State Electronics Dev.

Respondent : Cce

Judgement :

1. The Appellants are aggrieved by the imposition of penalty of Rs. 10,000/- under Rule 226 read with Rule 173Q of the Central Excise Rules for violation of Rule 173C read with Rule 173Q and Rule 9(1) and 9(2) of the CE Rules, 1944.

1.2. The duty demand on cost of inputs supplied by M/s. BHEL in the assessable value of the product (Test Jigs) manufactured by the appellants herein has already been paid.

2. Arguing on behalf of the Appellants Shri J.S. Agarwal, Ld. Advocate submitted that in view of the fact that the appellants paid the duty demand even without waiting for the issue of show cause notice, there is no mala fide intention of evading payment of duty and hence the penalty imposed requires to be set aside. On the other hand the Ld. DR submitted that the factor of payment before issue of notice to the manufacturer as well as to the suppliers, of course has been noted by the adjudicating authority who has imposed low penalty and therefore no

interference is called for in the impugned order, particularly having regard to the fact that the appellants who is reputed manufacturer of test jigs should have had the knowledge that the cost of inputs are liable to be included in the assessable value of their final product.

3. Heard both sides. We are of the view that the penalty is warranted for contravention of the rules and we see force in the DR's submissions that the adjudicating authority has taken the various aspects of the case into account before imposing such low penalty. Intention is not material or relevant for the purpose of Rule 173C except for sub clause (d) of the rule. Therefore, appellants cannot contend that no penalty can be imposed in law. However, having regard to the quantum of duty and the applicants being a Government corporation we reduce the penalty to Rs. 5000/-. Subject to this above modification, we uphold the impugned order and dismiss the appeal.

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