

Commissioner of C. Ex. Vs. Indian Standard Metal Co. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-27-1999

Reported in : (2000)(68)ECC605

Appellant : Commissioner of C. Ex.

Respondent : Indian Standard Metal Co. Ltd.

Judgement :

1. This is an appeal by the Revenue against Order-in-Original No.90/92, dated 6-5-1992.
2. Show cause notice issued on 7-7-1983 demanded duty for the period from August, 1981 to February, 1983 and no fraud or wilful mis-statement or suppression of facts etc. were found to be involved in the case. The Additional Collector dismissed the demand as totally time barred. The Revenue has submitted that part of the demand was within the time limit of six months and the adjudication order is erroneous to this extent. The appeal points out that the time limit is to be reckoned with reference to Section IIA(3)(ii). In the instant case, when time limit of six months is worked out in terms of the definition of "relevant date" contained in the Section, part of the demand becomes within the time limit of six months i.e., the clearances of December, 1982, January, 1983 and February, 1983.
3. None has appeared for the respondent despite notice. Therefore, we are disposing of this appeal after hearing the Departmental Representative who

referred to the definition of "relevant date" as contained in Section 11A as well as to the decision of the Tribunal in Commissioner of Central Excise v. Vapi Paper Mills Etd. In mat case, the Tribunal held that the time limit for demand of duty, if not paid or short paid etc. is to be reckoned with reference to the filing of RT12 Returns. The finding of the Collector that the entire demand is beyond the time limit is contrary to the provisions of Section 11A and the decision of the CEGAT in the aforesaid case. We, therefore, set aside his order to this extent and hold that demands in respect of clearances made in December, 1982, January, 1983 and February, 1983 were within time limit. The appeal of the Revenue is allowed to this extent. Jurisdictional Assistant Commissioner shall work out the duty demand and intimate the same to the respondent for payment of duty short levied in respect of removals made during these months.

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