Unit Trust of India and ors. Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-21-2000

Reported in : (2000)(72)ECC441

Judge : J T J.H., G Srinivasan

Appellant : Unit Trust of India and ors.

Respondent : Commissioner of Central Excise

Judgement :

1. These four applications relate to four appeals filed against the same order. These are therefore being disposed of vide this single order.

2. M/s. M.N. Furniture undertake manufacture, fixtures etc. M/s. Unit Trust of India had office at New Mumbai. A contract for furnishing a part of that office was given to M/s. M.N. Furniture. One of the terms of the contract was that all taxes, duties etc. required would be paid by the contractors. The work was accordingly done. At a later date the officers of Central Excise visited the building and investigated into the fact whether the burden of payment of Central Excise Duty on the furniture was discharged or not. At the end of the investigation show cause notice was issued alleging non-payment of duty amounting to Rs. 28,73,673. The Notice also alleged that the goods totally valued at Rs. 3,51,92,143 were liable to confiscation and that the firm of M/s. M.N.Furniture, two partners thereof namely Shri N.D. Kularia and Shri M.G.Mistry, as well as the principal M/s. UTI were liable to penalty. The Commissioner after hearing the noticees requantified the demand to

Rs. 28,19,158 and confirmed the same, acknowledging that a sum of Rs. 15 lakhs had been paid by M/s. M.N. Furniture towards the duty liability.

He ordered confiscation of the goods but permitted redemption on payment of fine of Rs. 10 lakhs. He imposed a penalty equal to the duty confirmed on M/s. M.N. Furniture and of Rs. 3 lakhs each on the two partners thereof. He also imposed a penalty of Rs. 2 lakhs on M/s. UTI.Hence the appeals and the present applications.

3. We have heard Shri Rohan Shah Advocate for M/s. M.N. Furniture, Shri N.D. Kularia and Shri M.G. Mistry and Shri Manoj Sanklecha Advocate for Unit Trust of India, we have heard Smt. Reena Araya for the Revenue.

4. The task of making the furniture in the UTI building was divided between two forms (sic) [firms] of furniture makers. Where the present proceedings concern M/s. M.N. Furniture, similar proceedings were commenced against M/s. Kaishar Interior Pvt. Ltd., their two partners and M/s. Unit Trust of India. In those proceedings the Commissioner had confirmed duty amounting to Rs. 40,83,844. In identical circumstances M/s. UTI and the furniture makers had filed appeals as well as applications seeking waiver of pre-deposit of duties and penalties.

Those applications were decided by the Tribunal vide order No.C-I/2632-35/WZB/2000 dated 7.8.2000. In the order the Tribunal observed that the main issues as to the identification of the dutiable furniture would have to be decided at the stage of final hearing. Similarly the fact whether the appellants rendered themselves to penalty would also have to be decided at a later stage. The Tribunal also considered the fact that about 45% of the duty disputed had been pre-deposited during the proceedings. As regards the prayer of UTI of the stay orders of confiscation etc. Ld. Counsel does not press this point, No orders are made thereupon. On these observations the Tribunal granted dispensation with the pre-deposits. Adopting these findings, we grant waiver of pre-deposit of remainder of duty as well as the penalties.

5. Registry to obtain orders as to transfer of these appeals to Court I for final disposal.