

Amtek Auto Ltd. Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-01-2000

Reported in : (2001)(127)ELT295TriDel

Appellant : Amtek Auto Ltd.

Respondent : Commissioner of Central Excise

Judgement :

1. In this case Modvat credit of Rs. 22,20,301 has been disallowed on capital goods not found physically in the premises of the appellants who are manufacturers of forged items falling under Chapter Heading 8708 of the Schedule to the CETA, 1985 and availing Modvat facility under Rules 57A and 57Q of the Central Excise Rules, on 27-2-98 when the Central Excise Officers visited the factory premises. Penalty of an amount equal to the duty has also been imposed upon the Company and a penalty of Rs. 1 lac has been imposed under Rule 209A on the Deputy Manager (Accounts), second appellant herein.

2. We have considered the rival submissions, we find that the capital goods had been shifted to the sister unit of the company, namely, Amtek India Ltd. without raising any modvatable invoice and the machines were removed under the cover of photostat of original invoice duly endorsed in the name of Amtek India Ltd. on 25-2-98 and 26-2-98. Since the machines were removed without intimation to the proper officer and without observing the procedure as laid down under Rule 57 S of Central Excise Rules, credit on the goods is .not admissible to them. They have already reversed a sum of Rs. 15,31,938. We therefore hold that they are liable to

reverse the balance credit. Penalty is also warranted for contravention of the Rules. However, having regard to the totality of facts and circumstances, including the fact that the credit of Rs. 15,31,938 was reversed on 28-2-98 i.e., immediately after detection of the contravention, we reduce the penalty on Amtek Auto Ltd. to Rs. 3 lakhs' and the penalty on Shri M.P. Gupta to Rs. 10,000.

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