

Commissioner of Central Excise Vs. Bhai Chand U. Doshi

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-12-2000

Reported in : (2001)(128)ELT472TriDel

Appellant : Commissioner of Central Excise

Respondent : Bhai Chand U. Doshi

Judgement :

1. These appeals of the Revenue are directed against Order-in-Original No. 53/91 dated 11-7-1991 of the Collector of Central Excise, Bombay II. The Revenue is aggrieved by the order of Collector in his not imposing penalties on the Directors of the Company M/s. Neoluxe India.

During hearing of the case today, Id. Counsel for the respondents submitted that M/s. Neoluxe India, a limited company, was the manufacturer of the goods in respect of which certain duty demands were raised. The respondents were only Directors of the Company. The main party to the proceedings namely M/s. Neoluxe India have availed themselves of Kar Vivad Samadhan Scheme and settled the disputes. Ld.

Counsel submitted that in such a situation where the main party to the case (manufacturer) has settled the dispute with the Revenue, it is not permissible for the Revenue to continue the dispute for penalty on the Directors of the Company. He drew our attention to Trade Notice of Commissioner of Central Excise and Customs Vadodara F. No.IV/16-28/98-MP dated 9-12-1998 where this position

has been clarified.

Para 2 of that Trade Notice reads as under: "2. In simple words, it means that if the principal noticee gets the case settled under the Kar Vivad Samadhan Scheme, it will provide immunity to all other co-noticee also" Ld. Counsel of the respondents submitted that in the circumstances appeal of the Revenue needs dismissal. We have heard Id. DR also.

2. It is dear from the Trade Notice of the Vadodara Commissionerate that it is the policy of the Government not to proceed against other co-noticee once the principal noticee goes under Kar Vivad Samadhan Scheme. In the present appeals, respondents were only Directors of the Company and Company (principal noticee) availed itself of Kar Vivad Samadhan Scheme. Therefore, the proceedings against Directors for imposition of the penalty have been correctly dropped. The appeals are accordingly rejected.

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