

C.C.E., Indore Vs. M/S. Sintex Plast Containers (P)

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-05-2001

Reported in : (2001)(75)ECC341

Judge : Author: S Kang

Appellant : C.C.E., Indore

Respondent : M/S. Sintex Plast Containers (P)

Judgement :

1. Revenue filed this appeal against the order-in-appeal, whereby the Commissioner (Appeals) gave a finding that no suppression can be alleged against the respondents. Therefore, the demand is time-barred.

2. Brief facts of the case are that the respondents are engaged in the manufacture of plastic tanks and were availing the benefit of small scale exemption notification. On 5.3.97, a show cause notice was issued demanding duty for the period from 94-95 on intermediate product i.e.

plastic powder/moulding powder on the ground that the respondents had not declared this product in their classification list and the extended period of limitation under Sec. 11A of the Act was invoked.

3. Dy. Commissioner confirmed the demand and in appeal filed by the respondents, the Commissioner (Appeals), vide impugned order, held that the demand is time-barred as the respondents, from time to time, fixed the

declarations explaining their manufacturing process to the revenue.

5. The contention of the revenue is that it is mandatory for the respondents to declare their excisable goods in their classification list. As the respondents had not declared their intermediate product, the finding of the Commissioner (Appeals) that the demand is time barred, is set aside.

6. The respondents filed necessary declarations for availing the benefit of small scale exemption and along with these declarations they explained the manufacturing process and while explaining the manufacture process they specifically mentioned that the material is processed, pulverised and converted into powder form after getting the pulverised power and the material is used for manufacture of water storage tanks. The declarations were filed on 4.2.93 and 15.4.93 with the revenue. At the time of registration of their unit with the revenue authority on 8.12.93, the same process was also submitted to the Supdt.

(CE.). As the respondents in their declarations declared the process of manufacture of goods manufacture, it cannot be alleged that there was suppression or willful mis-declaration by the respondents with intent to evade payment of duty. In view of the above discussion, I find no infirmity in the impugned order. The appeal is rejected. (Dictated in Court).

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