Vistar Electronics Pvt. Ltd. Vs. Commissioner of Central Excise and

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SooperKanoon Citation : sooperkanoon.com/21162

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Feb-28-2001

Reported in : (2001)(133)ELT202Tri(Mum.)bai

Appellant : Vistar Electronics Pvt. Ltd.

Respondent : Commissioner of Central Excise and

Judgement :
1. Against the common order passed by the Commissioner II Pune, two appeals were filed by M/s. Inventa Electronics Pvt. Ltd. and M/s.

Vistar Electronics Pvt. Ltd. In his order the Commissioner held that the two units were related persons and the prices at which M/s. Vistar electronics Pvt. Ltd. were selling products, would be the assessable value for charging duty from M/s. Inventa Electronics Pvt. Ltd. The Commissioner confirmed the duty and also imposed penalties on both the units. Along with the appeals both units filed applications for waiver of predeposit etc. These two applications were disposed of by the Tribunal vide single order No. 1318-19/96WRB dt. 22.3.96. In this order the Tribunal directed M/s. Inventa Electronics Pvt. Ltd. to deposit a sum of Rs. 15 lakhs and also to furnish a Bank Guarantee for equal amount as precondition of hearing of their appeal. On compliance, the Tribunal held that there would be waiver of predeposit of penalty by M/s. Vistar Electronics Pvt. Ltd. and also by M/s. Inventa Electronics Pvt. Ltd. M/s. Inventa did not honor this order. Therefore vide order No. 3903-05/96/WRB dt. 13.12.96, the appeal filed by M/s. Inventa Electronics Pvt. Ltd. was dismissed. The Tribunal in this order made the following observation: "Since this applicant has not complied with the stay order, the other appellants, M/s. Vistar Electronics Pvt. Ltd. also suffers the same fate as compliance by M/s. Inventa Electronics Pvt. Ltd. was the condition for stay granted to this appellants also. Therefore, the appeal filed by M/s. Vistar Electronics Pvt. Ltd. is also dismissed for non compliance under Section 35 F of the Act".

2. The present application is against this order. The claim made in the application and also orally is that the Tribunal was wrong is dismissing the appeal of the applicant on failure of the burden cast upon another company. It is the submission that these two units were not related persons and that the case of the present application should have been judged entirely independently from the beginning.

3. On perusal of the records, we find merit in this submission. We accordingly restore the appeal filed by M/s. Vistar Electronic Pvt.

Ltd. and direct that their application for waiver of predeposit be posted for immediate hearing.