SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

M/S. SkytraIn Services Vs. Commissioner of Customs, New

M/S. SkytraIn Services Vs. Commissioner of Customs, New

SooperKanoon Citation : sooperkanoon.com/21849

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-29-2001

Appellant : M/S. SkytraIn Services

Respondent : Commissioner of Customs, New

Judgement :

1. The applicants filed this application for waiver of penalty of Rs. 1 lakh under Section 114 of the Customs Act, 1962. The learned Counsel appearing on behalf of the applicants submits that applicants are Custom House Agent. The applicants filed Shipping Bills on behalf of M/s. Bless Overseas for export of Accupressure Shoe Liners. The applicants filed the Shipping Bills and declared the goods in the Shipping Bill as per information supplied by the expoerter. Learned Counsel submits that there is no evidence on record to show that applicants ever connived with the exporter to declare higher value of the goods with intent to avail excess DEPB benefits. he submits that the Collector of Customs in the impugned order, without any evidence, held that appellants the customers in an attempt to export over-invoiced goods availing excess DEPB credit. He, therefore, prays that the application be allowed. Learned Departmental Representative appearing on behalf of the Revenue submits that M/s. Bless Overseas over invoice their export goods with intent to avail excess DEPB benefits. He relies upon the statement of Shri Rakesh Dwivedi, Prop. of M/s. Bless Overseas. When he admitted that he, alongwith Dhiraj Gupta of M/s. Dhiraj Plastics, entered into an agreement to avail the excess DEPB benefits and the same would be shared between them.

3. In the impugned order the Commissioner gave a finding that appellants abetted the exporter to export over-invoiced goods for claiming higher DEPB credit. The Revenue is relying upon the statement of proprietor of M/s. Bless Overseas. In his statement, he nowhere mentioned that the applicants are also involved in getting higher credit. Keeping in view the facts and circumstances of the case, prima facie, it is a fit case for waiver of penalty. Therefore, pre-deposit of penalty is waived for hearing of the appeal. Registry is directed to list the appeal on 17.5.2001.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com