Prabhat Polycoaters Vs. Commissioner of Central Excise and

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-03-2001

Reported in : (2002)(147)ELT701Tri(Mum.)bai

Appellant : Prabhat Polycoaters

Respondent : Commissioner of Central Excise and

Judgement :

1. The appeal is against the order of the Commissioner (Appeals), passed on an appeal filed by the manufacturer against the order of the Deputy Collector. In that order, the Dy. Collector ordered confiscation of goods manufactured by it on the ground that they were not entered in the RG-1 register. He permitted their redemption on payment of fine of Rs.2 lakhs and imposed a penalty of Rs.50,000/- on the manufacturer. On appeal from that order, the Commissioner (Appeals) confirmed the liability of the goods to confiscation and the manufacturer to penalty but reduced the redemption fine and penalty t Rs.50,000/- and Rs.20,000/- respectively.

2. Mr. R.D. Wagle, C.A., to whom a copy of notice of hearing was sent, that he is unable to represent the appellant for want of instructions.

Despite notice to it, appellant is not present and has not asked for adjournment. Therefore, after reading the memorandum of appeal and hearing the departmental representative, I proceed to decide the appeal.

3. The appeal does not question that the particulars of the goods were not entered in the RGI register but attributes it to the absence of the manager of the appellant on the two days preceding the visit of the officers. It therefore contended that there are no mala fides.

4. The explanation is not satisfactory. Presumably, if the manager left the factory for whatever purpose, he must have nominated someone to take charge of the affairs of the factory. Surely, its affairs did not remain unattended for three days.

5. I am unable to accept its plea that the offence is so technical that confiscation and penalty was not called for. failure to enter any particulars of manufactured goods in the RGI register is not a simple technical offence which can be ignored. Proper accounting is a fundamental requirement correct for payment of duty, and it absence can lead to evasion. Having regard to the value of the of Rs.8 lakhs I do not find that the redemption fine and penalty call for any reduction.