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

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SooperKanoon Citation : sooperkanoon.com/24783

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-01-2001

Appellant : Vistar Electronics Pvt. Ltd.

Respondent : Commissioner of Central Excise

Judgement :
1. The appeal is against the order of the Commissioner imposing a penalty under Rule 173Q on the appellant.

2. The Commissioner found that the appellant was related to Inventa Electronics Pvt Ltd, the manufacturer of excisable goods, and has held the assessable value of duty the price at which the appellant sold those goods and he has consequently imposed a penalty on the manufacturer and the appellant.

3. The appeal filed by Inventa Electronics Pvt Ltd has already been dismissed for default.

4. The contention of the counsel for the appellant is that even assuming the appellant to be a related person, penalty is not imposable on it under Rule 173Q. That rule does not apply to anyone other than a manufacturer, producer of excisable goods or a warehouse keeper. He cites the decision of the Tribunal in Kalsi Tyres vs CCE 1986 (26) ELT 631 in support. The ratio of this decision is that penalty cannot be imposed on a dealer of goods under Rule 173Q.5. The departmental representative is not able to say why this ratio should not be applied to the facts before us. We see no reason not to follow the decision.