

Commissioner of Customs and Vs. Scope Systems

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Nov-01-2001

Appellant : Commissioner of Customs and

Respondent : Scope Systems

Judgement :

1. On hearing both sides on the stay application, the issue being decided the appeal was taken up for disposal.
2. The Commissioner (Appeals) set aside the orders of imposition of penalty under Section 11AC of the Central Excise Act, 1944 on the observation that the contravention was committed prior to the date on which the said Section was introduced namely 28/09/1996. In doing so he had relied upon the following judgment of the Tribunal: 3. The Revenue in this appeal contest this finding placing reliance on the circular of the Board to the effect that where the show cause notice was issued prior to this date this Section would have application.
4. The said circular bearing No. 354/118/96-TRU dated 06/01/1997 had been cognisanced by the Tribunal in their order in the case of Boisor Chemicals Pvt. Ltd. v. CCE, Mumbai-III [2001 (132) ELT 327]. The Tribunal held that this circular could not have the prominence as warranted in terms of the Supreme Court judgment in the case of Ranaadey Micronutrients v. Collector [1986 (87) ELT 19]. The Supreme Court judgment reported in 2001(128) ELT 52 in the case of Commissioner v. Elgi Equipments Ltd. would hold the field. In this judgment the Supreme Court very clearly held that where the illegality was committed prior to

the insertion of the Section, the Section had no application.

5. In view of this position in law the appeal merits dismissal and is dismissed.

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