

Cipla Ltd. Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-04-2001

Appellant : Cipla Ltd.

Respondent : Commissioner of Central Excise

Judgement :

1. The application is for waiver of deposit of penalty of Rs. 5 lakhs imposed on the finding of the authorities that in its price declaration filed for determining the value of bulk drugs manufactured by it and captively consumed in their factory under Rule 6(b)(ii), the applicant took account of the cost of manufacture of the previous year, which was lower than the cost of raw material.

2. The contention of the counsel for the applicant is that there was no intent to evade duty since the goods were to be consumed by the applicant in another factory and whatever duty was paid in this factory would be available to it in another factory. He relied upon the decision in S.L. Packaging v. CCE 3. The departmental representative contends that the provisions of Rule 173Q(1)(a) relating to removal of excisable goods in contravention of the rules would apply to the facts of this case and therefore the intention is immaterial.

4. The issues are arguable. We do not find the contention of the departmental representative prima facie entirely devoid of merit. We therefore direct the applicant to pay Rs. 1 lakh towards the penalty within a month from the receipt of the order, thereupon which we waive deposit of the remaining penalty and stay its recovery.

