

**Dynatech Systems Vs. Cce**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Jan-18-2002

**Reported in :** (2002)(80)ECC355

**Judge :** P Bajaj, B T K.K.

**Appellant :** Dynatech Systems

**Respondent :** Cce

**Judgement :**

1. M/s. Instel Electronics (P) Limited manufacture the Radio Cassette Recorders falling under Chapter 85.27. Their factory premises were visited by the Central Excise Officers on 2.8.95. On scrutiny of the records, it was found that the appellants M/s. Dynatech Systems had been manufacturing the Radio Cassette Recorders for M/s. Uptron India Limited with the Instel brand. 2399 pieces of Radio Cassette Recorders valued at Rs. 16,43,315 were found. A statement was recorded from Shri Bharat Bhalla, Director of M/s. Instel Electronics (P) Limited who disposed that M/s Instel Electronic (P) Limited were manufacturing the radio cassette recorders, cassette tape recorders and testing and measuring electronics by availing exemption under Notf. No. dated 28.2.93. Accordingly, the proceedings were initiated which culminated in the Joint Commissioner of Central Excise, Delhi passing an order dated 12.1.2000 in which he confirmed a demand of Rs. 3,28,663 on the appellants apart from imposing the penalties of Rs. 3,30,000 under Section 11AC of the Central Excise Act, 1944 and Rs. 3,50,000 under Rule 173Q of the Central Excise Rules, 1944 and Rs. 3,000 on Shri Bharat Bhalla,

Director under Rule 209A of the Central Excise Rules, 1944.

2. On appeal, the Commissioner (Appeals), New Delhi vide his order dated 3.9.2001 set aside the penalty of Rs. 3,30,000 imposed on the appellants under Section 11AC but otherwise rejected their appeal. The appeal of Shri Bharat Bhalla against the amount of penalty of Rs. 3,000 is also rejected. M/s. Dynatech Systems and Shri Bharat Bhalla are in appeal against the impugned order of the Commissioner (Appeals), New Delhi before us.

3. We have heard Shri Naveen Mullick, Ld. Advocate for the appellants and Mrs. Krishan A. Mishra, Ld. SDR for the respondents. The Ld.

Counsel for the appellants submits that the appellants are not contesting the findings of the lower authorities that the appellants had manufactured the radio cassette recorders under the brand name 'Instel' belonging to M/s. Instel Electronics (P) Limited. Therefore, they have not been able to make out a prima facie case in their favour.

The Ld. Counsel is not contesting the penalty of Rs. 3,000 imposed on Shri Bharat Bhalla. Keeping all the facts in view, we direct the appellants M/s. Dynatech Systems to make a deposit of Rs. 75,000 on or before 14.3.2002. On making such deposit, the balance amount of duty and penalty imposed on them shall stand waived and its recovery stayed till the disposal of the appeal. The matter will be called for reporting compliance on 18.3.2002.

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