

Commissioner of Central Excise Vs. J. Mitra and Co. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-31-2002

Reported in : (2002)(80)ECC541

Judge : S Kang, a T V.K.

Appellant : Commissioner of Central Excise

Respondent : J. Mitra and Co. Ltd.

Judgement :

2. Revenue filed this Appeal against the portion of the adjudication Order where, the Commissioner of Central Excise held that the provisions of Sections 11AC and Section 11AB of Central Excise Act are applicable only in respect of demand of the period after 28.9.96.

3. The contention of the Revenue is that when the Commissioner in the impugned Order held that there is suppression on the part of the assessee during the period in dispute, therefore, the provisions of Sections 11AB and 11AC are applicable to the whole of the period in dispute.

4. We find that this issue is now settled by the decision of the Hon'ble Karnataka High Court in the case of CCE v. Supra Foundry Services (P) Ltd. Hon'ble High Court has held that penalty under Section 11AC and penal interest under Section 11AB of Central Excise Act is not leviable where the alleged offence and removal of the goods took place before introduction of these Sections i.e. 28.9.96. Hon'ble

High Court relied upon the decision of the Apex Court in the case of CCE v. Elgi Equipments Ltd. reported in 2001 (128) ELT 52 (SC). In view of the settled position of law, we find no infirmity in the impugned Order.

The appeal is rejected.

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