

Cce Vs. Vijay Sachdeva

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-15-2002

Reported in : (2002)(81)ECC381

Judge : B T K.K.

Appellant : Cce

Respondent : Vijay Sachdeva

Judgement :

1. In this case, the Additional Commissioner of Central Excise & Customs, Chandigarh vide his orders dated 26.2.99 and 22.3.99 inter alia has imposed penalties of Rs. 1.5. lacs and Rs. 1 lac on Shri Vijay Sachdeva under Rule 209A of the Central Excise Rules, 1944. The respondents filed the appeals and the Commissioner of Central Excise (Appeals), Chandigarh, vide his orders both dated 27.9.2000 in respect of the two appeals filed by the respondent, allowed his appeals with the observations that as per Rule 209A, penalty is imposable on any person who acquires possession of, or is in any way concerned in transporting, removing, depositing or purchasing or in any other manners deals with any excisable goods which he knows or has a reason to believe is liable to confiscation. He has observed that no evidence whatsoever has been adduced to establish as to how the appellant was involved in taking wrong modvat credit by the manufacturer and hence it is held that the penalty under Rule 209A is imposable.

2. These are Revenue appeals against the impugned orders of the Commissioner (Appeals), Chandigarh. I have heard Shri A.S. Bedi, Id.

SDR for the Revenue and Shri J.S. Agarwal, Id. Advocate for the respondents. The Id. SDR for the appellant has brought to my attention the detailed reasons recorded in para (ii) and para (iii) respectively of the two orders in original in terms of which the penalty under Rule 209A is considered liable to be imposed on the respondents. The lower appellate authority has not analysed, nor has he recorded any comments in respect of these findings arrived at in two orders by the original authority. In any event, if the Commissioner (Appeals) was not satisfied with the adequate treatment by the original authority of the case for imposition of penalty under this rule, he could have remanded the matter back to him for recording detailed reasons which led him to impose penalty under Rule 209A. In view of these observations, the impugned orders of the Commissioner (Appeals) so far as they relate to allowing the appeals of the respondent are set aside and the matter remanded to the original authority for recording the detailed reasons for imposition of penalty on the respondent with reference to the provisions of Rule 209A.

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