

Shivam Cable Industries Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-08-2002

Reported in : (2002)(81)ECC578

Judge : K Usha, N T C.N.B.

Appellant : Shivam Cable Industries

Respondent : Cce

Judgement :

1. This is an application for exempting pre-deposit of the amount of the duty and penalty demanded.

2. Officers of the Anti Evasion Branch while inspecting the premises of the applicant's manufacturing unit seized finished goods valued at Rs. 22,424 bearing the brand name of M/s. Shivam & Krishna. The goods were ordered to be confiscated. On further investigations, it was found that the appellants have been manufacturing and clearing the excisable goods in the name of M/s. Shivam Cable Industries and M/s. Krishna Cable Industries since 1996-97, while the second unit namely M/s. Krishna Cable Industries was a dummy unit, without any manufacturing facility.

A show cause notice was issued to the appellants, after clubbing the clearances of both the units. Adjudicating authority confirmed the demand of Rs. 5,34,134 and imposed equal amount of penalty under Section 11AC of the Central Excise Act,

1944. On an appeal, Commissioner (Appeals) has reduced the amount of duty to Rs. 4,18,790 and penalty of Rs. 2,73,000 .

3. It is the contention of the appellant that merely because the proprietor of the appellant is helping to run M/s. Krishna Cable Industries owned by his nephew it can not be taken that M/s. Krishna Cable Industries is a dummy unit. It is also contended that Shri R.S.Tripathi, Proprietor has not admitted that M/s. Krishna Cable Industries is a dummy unit meant for availing exemption benefits.

4. It is seen that in spite of repeated notices sent to the M/s.

Krishna Cable Industries they never appeared before the authority. No evidence was produced by the appellant to prove that the unit of M/s.

Krishna Cable is a manufacturing unit, engaged in the manufacture of the goods. Taking into consideration all these facts and circumstance of the case, prima facie it appears that the appellant has not made out a case in its favour.

5. The learned Counsel for the appellant submitted appellant is in difficult financial condition. He also submitted that proceedings are initiated for realisation of debt due to the bank. It has no other source for payment. In view of the above, facts and circumstances of the case, we direct the appellant to deposit an amount of Rs. 2 lakhs towards the duty demand and Rs. 1 lakh towards penalty demanded. The amount shall be deposited within a period of six weeks. Matter to come up for compliance on 30th April, 2002.

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