

Om Prakash Jain Vs. Cc

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-16-2002

Reported in : (2002)(82)ECC650

Judge : B T K.K.

Appellant : Om Prakash Jain

Respondent : Cc

Judgement :

1. The Commissioner of Customs (Preventive), Pune vide his order dated 31.12.97 has confirmed the customs duty and CVD amounting to Rs. 7,67,525.86 on Shri Samir Parikh of Mumbai under Section 28(2) of the Customs Act, 1962 and further imposed a penalty of an equal amount on him under Section 114A of the Act. He also ordered that the interest @ 20% may be recovered from Shri Samir Parikh under Section 28AB of the Act. He has further imposed penalties of Rs. 5 lakhs each on Shri Samir Parikh, Shri Mithubhai Ganatra and Shri Om Prakash Jain under Section 112(a) and (b) of the Customs Act, 1962.

2. Shri Om Prakash Jain has filed the present appeal against the penalty of Rs. 5 lakhs imposed on him in the impugned order. This matter had come up for hearing earlier on 27.7.2000, 29.8.2000, 11.10.2000, 6.11.2000, 24.1.2001, 3.4.2001, 26.6.2001, 17.9.2001, 28.11.2001 and 13.12.2001. It is observed from the record that on each occasions Shri K.K. Anand, Advocate for the appellants had been pleading before the Bench that the main party penalised in the impugned order

has already settled their dispute under the Kar Vivad Samadhan Scheme, 1998 and each time he sought time for obtaining a copy of the certificate evidencing such settlement for the purpose of hearing the present appeal. The matter according is being adjourned from time to time. On 13.2.2002, when the matter last came up for hearing, the Bench recorded the following observations in the presence of the Counsel: This matter is being adjourned from time to time at the request of the Ld. Counsel of appellants to file evidence in support of his submission that the case against the main party penalised under the same order of the Commissioner is settled under the KVSS. The appellants has not filed any final settlement certificate. The Counsel shall file such certificate and also relate that with the present appeal.

Adjourned as a last chance to 16.4.2002. No notice and no further adjournment will be allowed.

3. Today when the matter is called, the appellants are not represented.

From the proceedings before the Bench, it is observed that the appellant has already given up his case on merits and is only pleading for the benefit in terms of the provisions of KVSS. Since, however, despite affording ample opportunity for filing a final certificate stated to have been issued for settlement of the case against the main charged party, the same is not forthcoming. It therefore, appears that the appellant is not interested in prosecuting his appeal. The appeal is thus dismissed.

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