Kiran Gupta Vs. Commissioner of Central Excise

Kiran Gupta Vs. Commissioner of Central Excise

SooperKanoon Citation : sooperkanoon.com/28539

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-17-2002

Reported in : (2003)(151)ELT212TriDel

Judge : S Kang, a T V.K.

Appellant : Kiran Gupta

Respondent : Commissioner of Central Excise

Judgement :

1. Appellant filed this appeal against the order-in-appeal passed by the Commissioner (Appeals). Brief facts of the case are that M/s. Mac Soft Technologies Pvt. Ltd. were engaged in the manufacture of Bare copper wire and were availing the benefit of small scale exemption. The appellants were also sending the copper wire to one M/s. Succhi Wire Products for conversion of the copper wire into super enamelled wire on job work basis. A show cause notice was issued to the appellant for denial of benefit of small-scale exemption notification in respect of specified goods manufactured and cleared in the brand name of another person. As the appellants cleared 5095.175 Kg. of super enamelled wire bearing the brand name of Shakti Imide. Duty of Rs. 1,58,739/- was demanded and proposal for imposition of penalty were also made. The Adjudicating Authority confirmed the demand and imposed a penalty of Rs. 3 lakhs on appellant-firm and penalty of Rs. one lakh was imposed on Mrs. Kiran Gupta, Director of the firm. The appellant filed the appeals and the same were rejected.

3. Contention of the appellant is that super enamelled wire were manufactured by M/s. Succhi Wire Products on job work basis. Therefore M/s. Succhi Wire Products are the manufacturer of super enamelled copper wire regarding which duty was demanded from the appellant-firm.

Their contention is that, no show cause notice was issued to M/s.

Succhi Wire Products. The contention of the appellant is also that the fact that M/s. Succhi Wire Products are manufacturer of super enamelled copper wire is admitted by the Revenue in the impugned order. It is also contended by the appellant that M/s. Succhi Wire Products were fixing the brand name on the goods in question, therefore, no demand can be raised from the appellant in respect of the goods manufactured by the job worker. The contention of the appellant is also that even assuming that the brand name was fixed by the appellant on super enamelled wire manufactured by M/s. Succhi Wire Products. This process does not amount to manufacture of goods.

4. SDR appearing on behalf of the Revenue reiterated the finding of the lower authorities.

5. In this case, the contention of the appellant is that the goods on which the duty is demanded are manufactured by M/s. Succhi Wire Products. This fact was admitted in the impugned order and the Commissioner (Appeals) held that after receiving enamelled copper wire manufactured from M/s. Succhi Wire Products on job work basis, the appellants were putting the brand name of Shakli Imide before clearing the goods, in view of this admitted fact that goods were not manufactured by the appellants and no show cause notice issued to the M/s. Succhi Wire Products, the demand of duty from the appellant is not sustainable. Hence the appeals are allowed.