Cc Vs. Anil Srivastava

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-08-2002

Reported in : (2003)(86)ECC96

Judge : P Bajaj

Appellant : Cc

Respondent : Anil Srivastava

Judgement :

1. This appeal has been filed by the Revenue against Impugned Order-in-Appeal dated 11.6.2002 passed by the Commissioner (Appeals) vide which he accepted the appeal of the revenue but failed to order the de-novo decision of the case, after holding that the Order-in-Original was not passed by the competent authority.

2. None has come present on behalf of the respondent inspite of issuance of notice to him. No request for adjournment has also been received from him. Therefore, I proceed to decide the appeal after hearing the learned JDR.3. The Order-in-original was passed by the Superintendent on the strength of the show cause notice dated 13.3.92 against the respondent.

In the show cause notice, the respondent was called upon to show cause as to why foreign made goods should not be confiscated and appropriate duty should not be recovered. That order of the Superintendent was challenged by the Revenue on the ground that he had no jurisdiction to adjudicate the show cause notice. The Commissioner (Appeal's) accepted this plea of the Revenue but failed to pass an order for de-novo adjudication of the show cause notice by the competent authority.

4. In the present appeal, the Revenue has prayed that direction be given for the de-novo adjudication of the show cause notice by the competent authority. This prayer of the Revenue, in the light of the facts narrated above, deserves to be accepted. When the Commissioner (Appeals) came to the conclusion that the Superintendent was not competent to adjudicate the show cause notice and held that the order passed by the Superintendent was illegal, he should have also directed the de-novo adjudication of the show cause notice.

5. In view of the discussions made above, the appeal of the Revenue accordingly is allowed and the impugned order stands modified with is a direction that the show cause notice be adjudicated upon de novo by the competent authority after giving due notice to the respondent.