

Commissioner of Central Excise Vs. Lucky Plast Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-21-2002

Reported in : (2003)(151)ELT66TriDel

Judge : B T K.K.

Appellant : Commissioner of Central Excise

Respondent : Lucky Plast Ltd.

Judgement :

1. This ROM petition is filed in respect of the Final Order dated 8-1-2002 passed by this Bench [2002 (142) E.L.T. 141 (Tri.)]. In this order, the appeal of the Revenue is allowed on recording the findings in details on the merit of the case. The only issue raised in this petition is that the above order is passed ex parte notwithstanding the fact that Sh. Bipin Garg, Advocate was present in the Court for the respondents and he had requested to be heard for them. The other point raised is on the merits of the findings arrived at in the order Sh.

Bipin Garg, Advocate representing the petitioners is present today. I have heard him as also Sh. S.C. Pushkarna, JDR for the Revenue. The Id.counsel submits that on the date of the hearing of the appeal i.e.

8-1-2002, he had filed a letter in which he had stated that he has been authorised to appear on behalf of the respondents and the Vakalatnama was awaited and that the Bench, however, did not accept this and proceeded to decide the case on the

basis of the evidence on record. In not allowing the Id. Advocate to contest the appeal of the Revenue for the respondents and proceeding to decide the case ex parte is contended to be a mistake in the impugned which is apparent on the face of the record and this would call for re-calling that order and passing an order afresh on hearing them.

2. I have considered these submissions. Admittedly, the letter of authority filed by the Id. Advocate in his favour on behalf of the respondents is written by himself without any authority from the respondents. By this letter, the Id. Advocate attempted to arrogate to himself the authority to represent the respondents which actually was not there and which has rightly been rejected by the Bench. The Id.counsel admittedly had not filed a proper Vakalatnama as also he was not able to file any other evidence in support of his contention that he was authorised by the respondent to represent them. In view of these admitted facts, therefore, the denial of the opportunity to hear him does not entail any mistake in the impugned order much less any apparent one on the face of the record. As regards objections taken on the merits of the case, it is well settled that the Tribunal being a creature of the statute has no power to review its own order. This ROM petition has no merit and the same is accordingly dismissed.

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