

C.V. Steels Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-24-2002

Reported in : (2003)(85)ECC586

Judge : S T G.R., P Bajaj

Appellant : C.V. Steels Ltd.

Respondent : Cce

Judgement :

1. Arguing the stay petition for waiver of pre-deposit of duty and penalty Shri J.S. Agarwal, Ld. Counsel submits that the Departmental Authorities have confirmed the demand on the basis of sales tax forms and movement registers maintained at the commercial tax barrier. Ld.

Counsel submits that quantity of goods computed on the basis of sales tax forms and movement registers and those cleared under GPIs was presumed by the authorities as clandestinely removed. He submits that since the case of the Department was based on sales tax forms and movement registers maintained at the commercial taxes checkpost, the applicant requested for copies of documents which were not supplied, therefore, there was denial of natural justice. Ld. Counsel submits that the cross examination of drivers and sales tax staff was also refused. This led further to violation of the principles of natural justice. Ld. Counsel submits that there was inspection of documents allowed to them but the documents were so voluminous that they could not be examined properly. He, therefore, prayed

that since there was denial of natural justice and that in similar circumstances, the Tribunal had waived pre-deposit of duty and penalty and ordered remand of the case. Similar action may be taken in the present case.

2. Shri Mewa Singh, Ld. DR submits that there was shortage of raw materials and that on the basis of the shortages, the demand was calculated which was further supported by the sales tax forms and movement register maintained at the check barrier. He submits that the applicant had in his statement agreed that the goods were removed without payment of duty. He submits that this is sufficient proof that goods were being removed by the applicant without payment of duty. He prays that the applicant may be directed to deposit the duty and penalty. He, however, submits that the matter should be decided early in case the matter is remanded for de novo adjudication.

3. With the consent of both the parties, we proceeded to decide the appeal after waiving pre-deposit of duty and penalty.

4. We note in the instant case that the "demand is computed on the basis of the sales tax departmental records maintained in the form of Form 39-ST and movement register at the commercial taxes barrier". In the Instant case the fact remains that "the records were voluminous and therefore, they could not be inspected properly. Further, we note that there was denial of cross examination of the truck drivers. Thus, there has been violation of the principles of natural justice. In this view of the matter, the appeal is remanded to the adjudicating authority for de novo adjudication. The impugned order is set aside and the adjudicating authority is directed to provide the applicant reasonable opportunity of being heard in person and providing them requisite records and cross examination of the people specified by them. 5. The stay petition is allowed and the appeal is allowed by way of remand.

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