

Commissioner of Central Excise Vs. Kumar Steels

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-01-2003

Reported in : (2003)(159)ELT959TriDel

Judge : P Bajaj

Appellant : Commissioner of Central Excise

Respondent : Kumar Steels

Judgement :

1. In both the appeals, the Revenue has questioned the validity of the impugned orders-in-appeal vide which the Commissioner (Appeals) has reduced the redemption fine and the penalty as imposed on them by the adjudicating authority.
2. The facts are not much in dispute. On visiting the factory premises of the respondent No. 1 some finished goods were found lying excess and unaccounted in the statutory record. The value of those goods was Rs. 63,000/-. The adjudicating authority ordered confiscation of those goods and allowed redemption of the same on payment of fine of Rs. 7,000/- and also imposed penalty of Rs. 10,000/-. The Commissioner (Appeals) has maintained that order. But reduced the redemption fine to Rs. 6,000/- and penalty to Rs. 2,000/-. Similarly on visiting the factory premises of respondent No. 2 some finished goods were also found lying excess and unaccounted in the statutory record. The value of those goods was Rs. 74,761/-. The adjudicating authority ordered confiscation of those goods and allowed redemption of the same on payment of redemption fine of Rs. 8,000/- and

personal penalty of Rs. 10,000/-. The Commissioner (Appeals) has maintained that order. But reduced the redemption fine to Rs. 5,000/- and penalty to Rs. 2,000/-.

3. The learned JDR has contended that penalty could not be reduced to Rs. 2,000/- as under Rule 25 of the Rules the penalty has to be minimum of Rs. 10,000/- which the adjudicating authority has rightly imposed.

The redemption fine also according to the learned JDR could not be reduced.

4. The respondents have sought decision on merits. I have heard the learned JDR and gone through the record. So far as the redemption fine is concerned, in my view, no minimum limit is provided under any Rules which is to be imposed in a case of confiscation of unaccounted goods, on the assessee. Regarding the personal penalty, Rule 25 only enacts that penalty in such a case could be Rs. 10,000/- or equal to the amount of duty whichever is greater. This Rule, in my view, does not in any manner mandates about the imposition of penalty not less than Rs. 10,000/- on the assessee where he had been found to have faulted in maintaining the RG-1 register properly by not making the entry of the finished goods lying in his premises. It only enacts that penalty will be Rs. 10,000/- or equal to the amount of duty, on the unaccounted goods whichever is greater. In both the cases, the value of the seized goods was only Rs. 63,000/- and Rs. 74,761/- respectively and the duty involved would not in any manner exceed Rs. 10,000/-. Therefore, keeping in view the facts and circumstances of the case, in my view, the Commissioner (Appeals) has exercised his discretion and reduced the penalty in both the cases. The discretion exercised by the Commissioner (Appeals) in my view cannot be said to be arbitrary or in any manner illegal. The order passed by him is perfectly valid and legal.

Consequently, the appeals of the Revenue are dismissed, being without merit.

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