

S.C. Brothers Vs. Commissioner of Central Excise

S.C. Brothers Vs. Commissioner of Central Excise

SooperKanoon Citation : sooperkanoon.com/32036

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-29-2003

Reported in : (2003)(157)ELT461Tri(Mum.)bai

Judge : S T Gowri, A Wadhwa

Appellant : S.C. Brothers

Respondent : Commissioner of Central Excise

Judgement :

1. Application by S.C. Brothers is for waiver of deposit of duty of Rs. 2.86 lakhs approx. and equivalent penalty. Application by K.D. Sanghvi, its partner is for waiver of deposit of penalty of Rs. 50,000/-.

2. The demand for duty and the penalty are consequent on the finding that the applicant did not pay duty on ferrous scrap which arose in the factory in the manufacture of parts of machinery. The contentions of the Counsel for the applicant are that there is insufficient basis for the quantification of scrap and that part of the scrap which was sent out was received back in the form of castings. As to the latter point, he accepts that there is no evidence of return of castings. He contends that the "security gate pass" which the applicant issued to its job workers who were to make casting did not contain any details whatsoever. He is however unable to produce copy of such a gate pass.

3. On the face of it, we find it difficult to believe that these gate passes did not contain any detail of the weight of the goods. Such weight would be necessary for a number of reasons. If as is claimed, the castings were to be manufactured out of them, the applicant should have some basis to ensure that the weight of the casting will be correspondent with the weight of the scrap sent after allowing for the manufacturing loss. The security in the applicant's factory would have also required weight of goods that left the factory. It is not denied that no duty was paid on these goods. We, therefore, think it appropriate to ask the applicant to deposit Rs. 2 lakhs within two months from today upon which we waive remaining duty and penalty and stay their recovery and as also the penalty on the partner.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com