Sardar Associates Ltd. Vs. Cce

Sardar Associates Ltd. Vs. Cce

SooperKanoon Citation : sooperkanoon.com/34118

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-12-2004

Reported in : (2004)(94)ECC319

Judge : P Chacko

Appellant : Sardar Associates Ltd.

Respondent : Cce

Judgement :

1. During the relevant period, the appellants, who were engaged in the manufacture of non-alloy steel ingots and billets, were working under the Compounded Levy Scheme under Section 3A of the Central Excise Act, 1944. Under that Scheme, they were paying duty periodically under Rule 96ZO (3) on the basis of the Annual Capacity of Production determined by the jurisdictional Commissioner of Central Excise. They were eligible for abatement of duty for any continuous period of 7 days in the event of non-operation of their induction furnace, under Rule 96ZO (2) of the Central Excise Rules, 1944 read with Sub-section (3) of Section 3A of the Act. The appellants filed two abatement claims for the periods 25.10.97 to 1.11.97 and 2.12.97 to 9,12.97 with the jurisdictional Commissioner. Both the claims were rejected by the Commissioner. Hence the present appeal.

2. Heard the DR. The appellants are not present, nor represented. They have waived the right to be heard.

3. The abatement claim for the period 25.10.97 to 1.11.97 was rejected by the Commissioner on the ground that intimation of closure and re-start of furnace was not received by the department in terms of Rule 96ZO (2). The Commissioner verified the records and found that no such intimation was received in the office of the Asstt. Commissioner or in the Range Office. This finding has been challenged by the appellants saying that intimation of closure was given by the registered-post and re-start intimation was personally delivered to the department.

However, in respect of the closure intimation, no postal acknowledgement of receipt has been produced by the appellants to show that such intimation was actually received by the addressee. Regarding the re-start intimation, the appellants have conceded that no dated acknowledgement was taken from the departmental officer to whom the intimation was allegedly delivered in person. In other words, the appellants have not been able to substantiate their plea that both the intimations were duly given to the department as required under Rule 96ZO(2).

4. In respect of the abatement claim for the period 2.12.97 to 9.12.97, the Commissioner found that the stock position of the notified goods and electricity meter readings as on the dates of the closure and re-start of the unit were not furnished in support of the claim. The requisite declaration of continuous closure was also not given. As against this finding, it has been submitted in this appeal that, in their letter dated 2.12.97, the appellants had noted the electricity meter reading and that such reading was checked by the Range authorities on the same day. It is further stated that the electricity meter reading as on 9.12.97 can be had from the Electricity Bill No.21. The appellants have no case that the electricity meter reading as on 9.12.97 or any Electricity Bill showing such reading was furnished to the department. The appeal is conspicuously silent on the stock position of the notified goods, which also ought to have been disclosed with reference to the dates of closure and restart of the furnace, to the department as required under Rule 96ZO(2). Thus, the claim for abatement of duty for the second period has also not been substantiated in this appeal.

5. In view of the above, I have no option but to affirm the impugned order. In the result, the appeal fails and is dismissed.