

Ambuja Intermediates Ltd., Vs. Commissioner of Central

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-11-2004

Judge : J Balasundaram, A M Moheb

Appellant : Ambuja Intermediates Ltd.,

Respondent : Commissioner of Central

Judgement :

Jyoti Balasundaram, Member (J) 1. After hearing both sides for sometime on the applications for waiver of pre-deposit of duty and penalty, details of which are given in the annexure, we find that it was possible to decide the appeals themselves at this stage as the principal grievance of the appellants is that of violation of principles of natural justice inasmuch as after filing of the final reply on 17/05/2003, in which they had requested that they may be extended an opportunity of personal hearing before the adjudicating authority, the impugned order was passed without granting them an opportunity. Hence with the consent of both sides we take up the appeals for final disposal.

2. The case of the department in brief relates to clandestine clearance of naphthalene and of DASA (4,4 Di Amino Sulfanilide) and H. Acid manufactured by using naphthalene and other raw materials. The finding of clandestine removal is inter alia based upon input-output ratio .

Without going into the merits of the demand we find it is possible to take a view on the plea of the appellants regarding the order being passed without hearing them.

We find that the appellants had filed an interim reply and then cross-examined certain witnesses on 8th February, 2003 after filing of their preliminary reply. On 17/05/2003 the final reply was filed and in the covering letter they had asked for an opportunity of personal hearing. We find that such hearing was not granted. Therefore we set aside the impugned order and remand the case to the jurisdictional Commissioner to pass fresh orders after hearing the appellants.

3. The appeals are thus allowed by remand.

Annexure	Details of Duty and Penalty	s. No.	Appeal No.	Name of the Appellant
Duty (Rs.)	Penalty (Rs.)	E/3384/2003	Ambuja Intermediates Ltd.	64,72,2107-
64,72,2107-E/3385/2003	Mahendra M. Patel	-5,00,000	7-E/3386/2003	Dineshchandra R. Shah
-5,00,000	7-E/3387/2003	Harakchand R. Shall	-5,00,000	7-

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