Vashishti Detergents Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-18-2004

Judge : K Usha, N T C.N.B.

Appellant : Vashishti Detergents Ltd.

Respondent : Cce

Judgement :

1. Under the impugned order, there is a duty demand of about Rs. 44 lakhs. About Rs. 37 lakhs is on account of shortage of inputs and remaining is on account of excess of inputs. These shortages were noticed by the Central Excise authorities during the visit to the unit on 15.12.95. Penalty of Rs. 10 lakhs and redemption fine of Rs. 8 lakhs have also been imposed.

2. The explanation of the appellant-manufacturer before the lower authorities was that, actually there was no shortage or excess of inputs. Only that the excise records had not been fully posted.

According to the appellants, if full postings were made in the excise records based on the factory accounts maintained regularly by the appellants, the entire quantities would be reconciled.

3. During the hearing of the case, the learned Counsel for the appellants took us through a letter of reconciliation of quantities filed by the appellants on 29.12.95. This letter was received within a few days of stock taking by the officers. The

appellants also showed us their factory records which are found to be maintained on a regular basis in registers, ledgers etc. The learned Counsel pointed out that the adjudication order has been Passed by the Commissioner in total disregard of regular business accounts of the appellants. The learned Counsel also stressed that the appellants difficulty in proper accounts keeping was attributable to poor employee-employer relations. He emphasized that apart from the failure to make entries in Central Excise statutory records, there is no failure on the part of the appellants to fully account for the inputs received and utilized. There was no misuse of inputs on which credit had been taken. Nor was there any clandestine production or clearance.

4. We have perused the records and heard the DR also. From the letter dated 29.12.95 of the appellant and the sample records produced, we are satisfied that these factory records of the appellants merited to be considered before reaching any finding about the alleged shortages or excesses. The impugned order which has recorded finding without considering them cannot be upheld. The matter requires to be reconsidered in the light of the appellants records and their explanation. To facilitate the same, we set aside the impugned order and remand the case to the commissioner for fresh adjudication. He shall pass a fresh order on the matter within a period of three months from the date of receipt of a copy of this order. Needless to say, the appellant shall be given full opportunity to explain its case.