

M.K. Laminates Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-05-2004

Reported in : (2004)(94)ECC353

Judge : A T V.K., B T P.S.

Appellant : M.K. Laminates

Respondent : Cce

Judgement :

1. In this appeal, the appellants have contested the correctness of the impugned Order-in-Appeal vide which the Commissioner (Appeals) has dismissed their appeals against the Order-in-Original, as time barred.
2. The learned Counsel has contended that appeal filed by the appellants against the Order-in-Original was within time as the copy of the said order was received by them only on 15.7.2003 while the appeal was filed by them on 2.9.2003 and that the Commissioner (Appeals) has wrongly rejected their appeal on the question of limitation.
3. On the other hand, the SDR has reiterated the correctness of the order.
4. We have heard both the sides and gone through the record. The perusal of the records shows that the Order-in-original was passed against the appellants, by the adjudicating authority who confirmed the seizure of the goods found lying in their factory and imposed redemption fine of Rs. 2.5 lakhs for getting the same

redeemed and also imposed penalty of Rs. 1 lakh on them. The copy of that order was despatched to the appellants on 7.11.2002 under registered post. The appellants through letter dated 26.2.2003 (copy at page 28) informed the Commissioner (Appeals) that initially one page from the copy of the order received by them was missing but after two months, that page was also supplied to them. Therefore, even if the contents of this letter of the appellants are accepted, still the appeal filed by them was time barred as it was filed only on 2.9.2003. The record also shows that they in fact did not raise any such objection for nearly six months from the date of receipt of the copy of the order which was sent to them through registered post on 7.11.2002. In fact, their plea that one page from the copy of order received by them was missing, appears to be an afterthought and it has been taken up to cover the inordinate delay in filing the appeal by them before the Commissioner (Appeals). Their plea, therefore, has rightly been rejected by the Commissioner (Appeals).

5. Since the appeal filed by the appellants before the Commissioner (Appeals) against the adjudication order was hopelessly time barred in the light of the discussion made above, the same had been rightly rejected by the Commissioner (Appeals). We do not find any illegality in the impugned order and the same is upheld. The appeal of the appellants is therefore, dismissed.

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