Commissioner of Central Excise Vs. U.T. Limited

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SooperKanoon Citation : sooperkanoon.com/35403

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-27-2004

Reported in : (2004)(170)ELT168TriDel

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

Appellant : Commissioner of Central Excise

Respondent : U.T. Limited

Judgement :

1. The appeal is accompanied by a condonation of delay application. The delay involved is 45 days. We have heard both sides on the condonation of delay application, stay application and appeal.

2. Revenue's appeal is about penalty. It is being contended that penalty was mandatory and Commissioner made an error in setting aside penalty on the ground that "two views were possible" on the question of valuation. A perusal of the records makes it clear that the difference in price between supplies made to the market (M/s. TAFE, Madras) and clearances made to appellants Hosur unit is on account of the fact that the transfers to the Hosur-unit were of semi-finished items which required further processing, while the sales to buyers is of fully finished items. Thus, there was a valid explanation for difference in prices. Penal provisions cannot be invoked in such a cases.

3. The appeal of the Revenue, therefore, has no merit. It is rejected after condoning the delay.