Ja Vs. Engineering (India) Ltd.

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SooperKanoon Citation : sooperkanoon.com/35467

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jun-01-2004

Reported in : (2004)(170)ELT438Tri(Mum.)bai

Judge : J Balasundaram, A M Moheb

Appellant : Ja

Respondent : Engineering (India) Ltd.

Judgement :

1. After hearing both sides for some time on the application for waiver of pre-deposit of duty of Rs. 15,66,000/- confirmed together with interest for the period February, 1999 to August, 1999, we find that it is possible to decide the appeal itself at this stage; and hence after waiving the pre-deposit, we proceed to hear and dispose of the appeal with the consent of both sides.

2. We note from the impugned order that the appellants have admitted the liability to pay duty. What is contested before us is the interest liability, on the ground that the language of Section 11AB of the Central Excise Act, as it stood during the relevant time provided for levy of interest only in the event of fraud, collusion or wilful misstatement etc. while Commissioner (Appeals) has given a clear finding that the company did not collude with their employee for short payment. The further prayer before us is for some time to make the payment of duty.

3. On a careful perusal of the section as it stood during the relevant time we agree with the appellants that they are not liable to pay interest on the duty demand, hence set aside the liability to interest under Section 11AB of the Central Excise Act. We confirm the duty as that is not contested before us.

4. In the result we uphold the confirmation of duty but set aside the liability of the appellants to pay interest thereon.