Cce Vs. Prevail Castings and ors.

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SooperKanoon Citation : sooperkanoon.com/35528

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jun-07-2004

Reported in : (2004)(115)LC592Tri(Mum.)bai

Judge : S T C.

Appellant : Cce

Respondent : Prevail Castings and ors.

Judgement :
1. Heard both sides. These five appeals have been filed by the Applicant Commissioner against a common order-in-appeal dtd.

16/23.5.2000 passed by Commissioner (Appeals). It is seen that the Commissioner (Appeals) has allowed the modvat credit and waived the penalty in respect of as many as 20 assessees. There is no explanation as to why only in the case of five assessees, the applicant Commissioner has come in appeal. Moreover, the Commissioner (Appeals) has allowed the credit on the ground that payment of duty of the impugned goods and proper utilization of duty credit have no been disputed. Further, in his common order he has come to the conclusion that since the defects found were of minor and technical nature, on the basis of the same duty credit cannot be denied. Consequently, he has also waived the penalties. I find that the applicant Commissioner has not made out a case requiring interference with the order in appeal nor he has explained why he has filed appeals only in respect of five assessees. As such, I dismiss all the

Departmental appeals.

2. I also find that large number of appeals are being filed by the field Commissioners against the order passed by the Commissioner (Appeals) and these appeals are being added to the large number of appeals already pending with the Tribunal, leading to delay in disposal of appeals many of which involve large amount of revenue. Moreover, the D.R.s. are in a dilemma whether to canvass the appeal filed by the field Commissioner or to defend the order passed by the Commissioner (Appeals) in such cases. It will be preferable if the Chief Commissioner under whom both he field Commissioner and Commissioner (Appeals) are working, examines the appeal proposal and authorizes appeal to be filed only in such cases where he feels that the order passed by the Commissioner (Appeals) is not legal and proper. Such a course of action will reduce the number of frivolous appeals filed by the field Commissioners to a great extent and the D.R.s will also have no problem in supporting the few appeals which are authorized to be filed by the Chief Commissioners.