

Commissioner of Central Excise Vs. Siddarth Tubes Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-10-2004

Reported in : (2004)(170)ELT588TriDel

Judge : P Bajaj

Appellant : Commissioner of Central Excise

Respondent : Siddarth Tubes Ltd.

Judgement :

1. In this appeal, the Revenue has questioned the correctness of the impugned order-in-appeal vide which the Commissioner (Appeals) has set aside the penalty of Rs. 50,000/- as imposed on the respondents by the adjudicating authority for having taken excess credit wrongly on the basis of the invoices issued by the Indian Oil Corporation Ltd. The learned JDR has stated that the imposition of penalty was mandatory as the respondents took excess credit illegally. Therefore, the impugned order deserves to be set aside. But this contention of the JDR is not to be liable to be accepted keeping in view the circumstances of the case.

From the record, it is evident that excess credit was taken by the respondents on furnace oil purchased by them from IOC Ltd. Whatever duty was shown in the invoices issued by the IOC, the respondents accordingly took the credit. But later on it was found that excess duty was shown by the IOC. When this mistake was brought to the notice of the respondents, they reversed the credit. In these circumstances, no fault can be attributed to the respondents. The fault if any was

committed by the IOC and the respondents on learning about the mistake occurring on the part of the IOC in indicating the amount of duty in the invoice they reversed the excess credit. Therefore, no imposition of penalty is warranted in this case against the respondents and the Commissioner (Appeals) has rightly set aside the same. I do not find any illegality in the impugned order and the same is upheld. The appeal of the Revenue is dismissed.

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