idcol Rolling Mill Vs. Commr. Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Calcutta

Decided On : Jul-01-2004

Reported in : (2004)(97)ECC67

Judge : Author: M Bohra

Appellant : idcol Rolling Mill

Respondent : Commr. Central Excise

Judgement :

1. This appeal has been filed against Order-in-Appeal passed by Commissioner of Central Excise (Appeals), Bhubaneswar on 28th March, 2003, by which he dismissed the appeal and upheld the order of the lower authority.

2. Brief facts of the case are that the appellant is a constituent unit of the Industrial Development Corporation of Orissa Ltd. engaged in the manufacture of for Steel and M.S. rounds. The appellant's mill came up under the compound levy scheme w.e.f. 1st September, 1997 and the annual capacity was determined by the Commissioner of Central Excise, BBSR II at 10,999 M.T. per annum and the duty payable was fixed at Rs. 2,75,000 per month in terms of Rule 96ZP (3) of the erstwhile Central Excise Rules, 1944.

3. We have heard Shri S.C. Mohanty, Ld. Advocate for the appellant and Shri T.K. Kar, Ld. SDR for the Revenue.

4. The main contention of the appellant is that the mill was closed from 1st August, 1999 and not yet resumed the manufacturing activity, so it was not obligatory for appellants to discharge the duty liability. Ld. Advocate for the appellant has relied upon on the following decisions of the Tribunal :Didar Steel Complex P. Ltd. v. CCE, 5. Ld. SDR, Shri T.K. Kar, submits that in the present case neither the appellant has disconnected the electricity connection nor they have surrendered the registration certificate. Under these circumstances, they are under an obligation to discharge the duty liability till registration certificate is surrendered. Ld. SDR, Shri Kar has relied upon the Tribunal's decision in the case of Balaji Steel Profiles v.Commr. of Central Excise, Visakhapatnam, 2004 0.66) ELT 175 (Tri.-Bang.).

6. In the present case, neither the appellant has disconnected the electricity connection of the factory nor they have surrendered the registration certificate to the competent authority. The appellants have only opted for Rule 96ZP (3) of erstwhile Central Excise Rules, 1944. Accordingly, they are under an obligation to discharge the duty liability on its annual production capacity determined by the Commissioner of Central Excise and was not entitled for any abatement.

This case is squarely-Covered by the judgment rendered in Balaji Steel Profiles v. Commr. of Central Excise, Visakhapatnam referred (supra).

In view of the above, the appeal has no merits and the same deserves to be dismissed.