

Cce Vs. Usha India Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-15-2004

Reported in : (2004)(95)ECC569

Judge : S Kang

Appellant : Cce

Respondent : Usha India Ltd.

Judgement :

1. Heard both sides. Revenue filed this appeal against the Order-in-Appeal passed by the Commissioner (Appeals). The respondent also filed Cross Objection seeking reduction in redemption fine.

2. Brief facts of the case are that on 11.9.2000, the officers of Revenue Deptt. intercepted two vehicles and 38 boxes of transistors valued at Rs. 5,39,610 were recovered. Shri Rajesh Nakra produced same invoice showing the clearance of these transistors and on verification it was found that invoice contained to some other unit at Bhagirath Place. As the goods were cleared without payment of duty, therefore, the goods were seized. The jurisdictional authority confiscated the goods and allowed the same on redemption fine of Rs. 1,35,000 and imposed a penalty of Rs. 50,000 each on respondents. A penalty of Rs. 25,000 was also imposed on Shri Rajesh Nakra. An appeal filed by the appellant, Commissioner (Appeals) set aside the penalty imposed on the appellant.

2. Contention of the Revenue is that as the goods were cleared without payment of duty, therefore, they are also liable for penal action. In the Cross Objections, the contention of the respondent is that the total duty involved in this case is Rs. 1,09,379 and redemption fine is excessive. The respondent had not contested the demand of duty before Commissioner (Appeals).

3. In this case the goods were cleared without payment of duty, The appellant produced an invoice to show the payment of duty. This invoice pertains to other unit and also relates to some other goods. In these circumstances, I find that respondents are liable for penal action. A penalty of Rs. 10,000 on Usha (India) Ltd., Electronic Division and Rs. 5,000 on Usha India Ltd., Samsung Division is imposed.

4. In respect of redemption fine taking value of goods, I find no merit in the Cross Objection, the same is dismissed. The appeal filed by the Revenue is allowed as indicated above.

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