

Sotex Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jul-22-2004

Judge : S T S.S., T Anjaneyulu

Appellant : Sotex

Respondent : Commissioner of Central Excise

Judgement :

2. This is the second time the matter has travelled to this Tribunal consequent to the remand orders made earlier. On perusal of the Show Cause Notice, it is found that duty demands have been made on M/s Sotex amounting to approx Rs. 5.99 lakhs and other companies i.e. M/s Unity Industries, M/s Sonic, and M/s Stelex along with penalty proposals. The Commissioner, however, has determined the duty demand of Rs 1.45 crores on M/s Sotex only and imposed a penalty of Rs 1.00 lakh along with various other penalties imposed on the other appellants which are the subject matter of the present applications.

3. Prima facie we do not find that there is a case or cause for clubbing the clearances of the units as arrived at by the Commissioner.

The order also suffers from vice of having proceeded to determine the duty demands in excess of the notice issued. However, on a prima facie consideration, we find that the duty demand of Rs 5.99 lakhs as proposed in the Show Cause Notice has been made out and got confirmed.

The matter requires to be heard in detail. We would at this stage consider that M/s Sotex should be placed on certain terms of pre deposit and consider that on a pre deposit of Rs 7.00 lakhs to be made by them and compliance thereof to be reported on 22.9.2004 further pre deposit not required and recovery of that would be stayed along with the pre deposit requirement of the other appellant herein.

4. As regards the oral plea for early hearing application made, we find that the amounts of duty involved in this case are more than Rs One crore and issue prima facie appears to be covered in favour of the appellants. However, Section 35F stage has to be crossed before the early hearing application is taken up for disposal. The appellants are at liberty to file early hearing application, if they so desire, after compliance with the above order.

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