Commissioner of Central Excise Vs. Daksh Steels Pvt. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-27-2004

Reported in : (2004)(97)ECC439

Judge : S Kang, N T C.N.B.

Appellant : Commissioner of Central Excise

Respondent : Daksh Steels Pvt. Ltd.

Judgement :

1. Heard both sides. Revenue filed this appeal against adjudication order passed by the Commissioner of Central Excise, Kanpur.

2. The appellants (sic, respondents) are engaged in the manufacture of M.S. Ingots of non-alloy steel and are working under the compounded levy scheme as per the Provisions of Section 3A of Central Excise Act.

In the impugned order the Commissioner of Central Excise allowed the abatement of claim for the period 28.5.98 to 8.5.99.

3. The contention of the Revenue is that as per the Provisions for abatement the manufacturer has to intimate the Revenue Authorities regarding the date of closure of the factory either prior to the closure or on the date of closure alongwith stock position and electricity meter reading.

4. The respondents intimated the closure on 28.5.1998 and close the factory on the same date. Therefore, they are not entitled for abatement for 28.5.1998. The other contention of Revenue is that assessee had not intimated regarding stock position of the goods and also had not supplied meter reading.

5. Contention of the respondent is that their factory was closed due to disconnection of the electric meter on 27.5.1998 at 8 P.M. Therefore, they were not in a position to inform the department a date prior to the closure of the factory. When the electricity connection was disconnected on 27.5.1998 they intimated the Revenue Department. In respect of stock position adjudicating authority gave a finding of fact that the intimation regarding stock position was sent to Range Superintendent with a copy to the Assistant Commissioner vide letter dated 29.5.98 by registered post. In respect of the reading of the electricity meter the contention is that the Electricity Board issued the certificate showing that the electricity connection of respondents factory got disconnected between the period 27.5.1998 to 8.5.1999.

Therefore, no production was carried out during the period in dispute.

6. We find that in this case the respondents intimated the Revenue authorities on 28.5.98 regarding the closure of their factory on the ground of disconnection of the electricity meter. U.P. State Electricity Board also issued a certification (sic) to the effect that during the period 28.5.98 to 8.5.99 the power supply was disconnected.

The Revenue authorities had not produced any evidence to show that during this period the respondents were manufacturing any product.

Regarding intimation of stock position the respondents informed the Range Superintendent through registered post. The certificate issued by the electricity authorities shows that during this period the electricity connection was disconnected. During arguments it is admitted by the respondents that on 8.5.99 the factory started production and they are not asking for abatement for 8.5.99. Therefore, in this situation the respondents are not entitled for abatement for 8.5.99. The impugned order is modified to this extent only and in the absence of any evidence that respondents carried out any manufacturing activity during this period, we find no infirmity with the impugned order. The appeal filed by the Revenue is dismissed.