

Commissioner of Cus. and C. Ex. Vs. Surya Kiran Polypack (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-25-2004

Reported in : (2005)(180)ELT386TriDel

Judge : M T K.C.

Appellant : Commissioner of Cus. and C. Ex.

Respondent : Surya Kiran Polypack (P) Ltd.

Judgement :

1. Shri S. Bhatnagar, learned JDR, appearing for the Revenue pleaded that the central excise officers on visit to the factory of the respondents found excess of 4 MT. of polypropylene for which they could not produce any documentary evidence and these were not entered in their stock account. The Commissioner (Appeals) should have upheld the confiscation of the goods and imposition of penalty on the respondents.

2. Shri Ramesh Nair, learned Advocate, appearing for the respondents pleaded that 4 MT. polypropylene which was said to have been found excess was received in their factory as inputs for the manufacture of their finished products. The documents for these inputs were received in their head office which is 35 K.M. away from the factory and it took time for them to send the documents to the factory and thereafter these goods could have been entered in their RG-23A account. Therefore, it is not the case of non-accountal of finished goods or non-accountal of the goods on which duty is liable to be paid. Therefore, the

Commissioner (Appeals) in his order has rightly held that the goods are not liable for confiscation and the respondents are not liable for penalty.

3. On consideration of the submissions made by both sides, I find that the Commissioner (Appeals) has given proper reason for accepting the plea of the respondents and, accordingly, he dropped the confiscation of the goods in question and penalty imposed on the respondents. I find that the reason given by the Commissioner (Appeals) is proper and, accordingly, the appeal of the Revenue is not sustainable and the same is rejected.

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