

**Kakkar Complex Steels (P) Ltd. Vs. Cce**

**Kakkar Complex Steels (P) Ltd. Vs. Cce**

**SooperKanoon Citation :** [sooperkanoon.com/37221](http://sooperkanoon.com/37221)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Nov-30-2004

**Judge :** V Agrawal

**Appellant :** Kakkar Complex Steels (P) Ltd.

**Respondent :** Cce

**Judgement :**

1. M/s. Kakkar Complex Steels (P) Ltd. are challenging the penalty imposed on them and redemption fine demanded from them.

2. Shri Gautam Kakkar, Director of the Appellant company, mentioned that the Appellants manufacture iron & steel ingots; that the Central Excise Officers on 21.2.2000 visited their factory and found 14.850 MT steel ingots have not been registered in the RG-1 register. The Additional Commissioner had confiscated the said ingots with an option to redeem the same on payment of redemption fine of Rs.10,000/- and had imposed penalty of Rs.5000/- which has been confirmed by the Commissioner (Appeals) under the impugned Order. He, further, submitted that Shri Kulwant Sharma, Accounts Manager, whose statement was recorded by the Central Excise Officers on the spot had explained that the difference of 14.850 MT between RG-1 stock and physical stock was on account of non-entering of the production of 19th & 20th February, 2000; that the production of these two days could not be entered on account of Administrative Office being closed, these being Saturday & Sunday; that as the officers had visited their factory premises in the morning hours on 21.2.2000 the production cannot be entered in RG-I register. He

relied upon the decision of the Tribunal in the case of Sumit Industries Ltd. v. CCE, Surat - 2004 (164) ELT 335 (Tribunal) wherein it has been held that "Penalty should not be ordinarily imposed unless there is a deliberate defiance of law or contumacious or dishonest conduct or a conscious disregard to an obligation is established in the facts of a case." 3. Countering the arguments Shri V. Valte, Ld SDR, submitted that the orders passed by both the lower authorities are proper and legal as undisputedly the physical stock of ingots was more than the stock reflected in RG-I register and as such there was contravention of provisions of Central Excise Rules.

4. I have considered the submissions of both the sides. In the present matter it is not disputed by the Revenue that the Accounts Manager of the Appellants has stated immediately after physical verification of the stock that the excess stock found was the production of last two days which would not be entered being Saturday and Sunday. In similar facts and circumstances of the case the Tribunal in the case of sumit Industries Ltd. has set aside the confiscation of the goods and penalty. In the facts and circumstances of the present case it cannot be said that there was a deliberate defiance of law by the Appellants.

Accordingly I set aside the impugned Order and allow the appeal.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**