Beepee Coatings Ltd. Vs. Cc and Ce

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SooperKanoon Citation : sooperkanoon.com/37332

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-10-2004

Reported in : (2005)(120)LC457Tri(Mum.)bai

Judge : J Balasundaram, Vice-

Appellant : Beepee Coatings Ltd.

Respondent : Cc and Ce

Judgement :

1. Total amount of Rs. 64,050/- has been confirmed against the appellants herein who are job workers for M/s. Berger Paints, on the ground that credit was availed on the strength of endorsed invoices which are not valid duty paying documents for taking credit. Penalty of Rs. 25,000/- has also been imposed upon the appellants.

3. The submission of the appellants that credit is admissible even on the strength of endorsed invoices as they are job workers and the only documents under which the goods can come to them for processing are endorsed invoices, is not tenable as there is no departure from the category of valid duty paying documents (which does not include endorsed invoices) in the case of a job worker. The job worker can avail credit if the invoice itself shows him as consignee, which is not so in the present case. I, therefore, uphold the finding that credit is not admissible on endorsed invoices. However, I accept the contention of the appellants that the demand for recovery of Rs. 42,750/- being credit availed on invoice No, 643 dated

27.10.1994 is barred by limitation as the relevant show cause notice had been issued on 6.6.1995. I, therefore, uphold denial of credit of Rs. 21,300/- (Rs. 64,050/- Rs. 42,750/-). As regards penalty, in the show cause notice dated 27.4.1995 proposing denial of credit of Rs. 20.800/- there is no proposal for penal action and penalty has been proposed only in the notice dated 6.6.1995 covering the amounts of Rs, 42,750/- which I have already held to be barred by limitation, and Rs. 500/-. Therefore, I reduce the penalty upon the appellants to Rs, 250/-, rejecting the contention of the appellants that no ground for penalty exists for the reason that they were under a bona fide belief that they were entitled to credit on the strength of endorsed invoices.