Amtek Auto Limited Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-24-2004

Reported in : (2005)(183)ELT79TriDel

Judge : N T C.N.B.

Appellant : Amtek Auto Limited

Respondent : Cce

Judgement :

1. The appellant is a manufacturer of automobile parts. The Central Excise Officers visited the appellant's factory on 22.12.98 and did a stock taking. They seized goods worth over Rs.13 lakhs on the ground that they were finished goods not entered in the RG-I. Subsequently, proceedings were initiated for the confiscation of the seized goods under Section 173Q of the Central Excise Rules and imposition of penalty. This is the second round of proceeding and goods remain confiscated under Rule 173Q with a penalty of Rs. 50,000/-. The charge is that the goods have not been accounted for.

2. The contention of the learned Counsel for the appellant is that the goods have not reached RGI stage. He points out that the goods were found in the inspection area the time of stock taking itself, the appellants' representative Shri Ram Singh had explained the reason for not entering the goods in the RG-I as they were awaiting final inspection.

3. I have heard the learned DR and also perused the records. He has relied on the decision of this Tribunal in the case of HGI Automotive's (P) Ltd. v. CCE, Faridabad-2004CCE, Indore v. CAPS & CAPS (P) Ltd. 4. It is clear from the fact on record that the goods were found in the inspection room and the appellants representative had explained that goods were awaiting final inspection, that non-entering in the RG-I is not a case of failure to account for the goods or the goods having been produced clandestinely. In fact, the appellant has fully explained the factual position and accounted for the goods. Entry in the RG-I is in regard to finished goods, which are ready for disposal or werehousing.

Inspection is the last stage of production and goods are to be stored in the store room only after inspection has certified the goods. In the present case, since the goods were in the inspection room and the appellant's representative had explained that goods were requiring final inspection, the charge of failure to account for is not sustainable. The impugned order is, therefore, set aside and the appeal is allowed with consequential relief, if any, to the appellant.