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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-27-2004

Reported in : (2005)(98)ECC823

Judge : M T K.C.

Appellant : Stericat Gutstrings P. Ltd.

Respondent : Commissioner of Central Excise

Judgement :

1. Shri Bipin Garg, learned Advocate pleaded that the appellants are manufacturing surgical sutures and sending these for sterlisation to Bhaba Atomic Research Centre, Bombay and Shri Ram Institute of Industrial Research, Delhi. These surgical sutures become excisable only after sterlisation. During the relevant period, the appellants were under the impression that sterilisation is being done by BARC and Shri Ram Institutes of Industrial Research, the goods become excisable at their premises and they are liable to duty. But in 1996, the Tribunal has decided the issue against them and held that the appellants are liable to pay the duty. The period of dispute i.e. on 27.12.1991, the officers of Central Excise visited their factory premises and seized surgical sutures which they had received from their job workers for clearance to customers. Shri Bipin Garg pleads that they are not disputing the duty which they had already paid. But he disputed the quantum of redemption fine and penalty which are very high. He pleaded that there should not be any redemption fine and penalty against the appellants as they were under the bona fide belief that they were not required to pay duty.

2. Shri V. Verma, learned JDR appearing for the Revenue pleaded that the appellants had neither taken any Central Excise Registration nor maintained any register or filed any declaration claiming any exemption from excise duty. Therefore, on the basis of intelligence collected, their factory was visited and the impugned goods were seized. He stated that in the absence of any declaration claiming exemption, it cannot be said that the appellants were sending the goods under excise challan or receiving the same under any challans from them. Therefore, the goods are liable for confiscation and penalty is imposable on the appellants.

3. On considering the submissions made by both the sides, I find that the appellants have not submitted any declaration claiming any exemption. Therefore, it cannot be said that the goods are not liable for confiscation or the appellants are not liable for penalty. I find that the Commissioner (Appeals) has already given finding that "I fully agree with the arguments of the learned Advocate, the fact remains that the impugned goods which are found in ready to despatch condition were indeed sterlized goods attracting Central Excise duty." Thus the appellants cannot say that they were not manufacturing excisable goods and these are not liable for confiscation. I find that the goods are liable for confiscation as excisable goods were being cleared by the appellants without maintaining any Central Excise record and without payment of duty. However, considering the fact and circumstances, I find that the redemption fine imposed on the appellants is high considering, the circumstances of the case. Therefore, I am inclined to reduce the redemption fine to Rs. 2 lakhs. I find that the penalty imposed is reasonable and there is no need for any modification in the penalty amount. The appeal is disposed of in the above terms.

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