

Commissioner of Central Excise Vs. Kamal Steel Rolling Mills

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-29-2004

Reported in : (2005)(98)ECC513

Judge : M T K.C.

Appellant : Commissioner of Central Excise

Respondent : Kamal Steel Rolling Mills

Judgement :

1. Revenue has challenged the order of the Commissioner (Appeals) to the extent of his setting aside of the penalty on the respondents relying on the decision of Madras High Court in the case of Beauty Dyers v. Union of India 2002 (52) RLT 635 and the decision of the Tribunal in the case of Shree Sai Prasad Dyeing and Printing Mills v.CCE 2. Shri P.M. Rao, learned JDR appearing for the Revenue pleaded that the decision on which the Commissioner (Appeals) has placed reliance are with reference to the Notification No. 42/98 in respect of Hot Air Stenter Independent Textile Processors Annual Capacity Determination Rules, whereas in the present case, the respondents are steel rolling mills who are working under 96ZP(3) of the Central Excise Rules. The Tribunal in the case of CCE, Chandigarh v. Vivek Re-rolling Mills has discussed this issue and came to the conclusion that the decision in the Beauty Dyers will not be applicable to the facts of the present matter. He also relied on the decision of the Allahabad High Court in the case of Pee Aar Steels (P) Ltd. v. CCE, Meerut wherein it was held that penalty has to be imposed whenever any manufacturer fails to pay the

amount of duty for any month by the 10th of such month. He, therefore, pleaded that in view of these decisions, the Commissioner (Appeals) order setting aside the penalty is not in accordance with law. No one appeared for the respondents.

3. I find that the order of the Commissioner (Appeals) relying on the decision of the Madras High Court in the case of Beauty Dyers v. Union of India (supra) is not according to the law. The issue involved has already been decided by the Tribunal in the case of CCE, Chandigarh v. Vivek Rerolling Mills distinguishing the judgment of the Madras High Court in the case Beauty Dyers. Therefore, the order of the Commissioner (Appeals) is set aside and case is remanded back to him to reconsider imposition of appropriate penalty in view of the decision of the Allahabad High Court in the case of Pee Aar Steels (P) Ltd. v. Commissioner of Central Excise, Meerut. Ordered

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