Sheet Components Pvt. Ltd. Vs. Commissioner of Central Excise

Sheet Components Pvt. Ltd. Vs. Commissioner of Central Excise

SooperKanoon Citation : sooperkanoon.com/38015

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-08-2005

Reported in : (2005)(184)ELT148TriDel

Judge : N T C.N.B.

Appellant : Sheet Components Pvt. Ltd.

Respondent : Commissioner of Central Excise

Judgement :

1. This appeal is directed against the confiscation of 45,400 pcs. of auto parts valued about Rs. 10 lakhs with a redemption fine of Rs. 1,00,000/- and imposition of penalty of Rs. 10,000/- on the appellant.

2. I have perused the records and heard both sides. The undisputed facts of the case are that the appellant had informed the jurisdictional Central Excise Superintendent vide letter dated 14th January 2003 that due to depressed market condition, stocks were accumulated and the appellant was keeping freshly produced goods in packed condition outside the Bonded Store Room; but within the factory premises. Subsequently, on 15th February 2003, the officers visited the appellant's premises and raised allegation that the appellant was keeping finished goods without accountal for the purpose of clandestine removal.

3. The contention of the appellant is that the storage outside the Bonded Store Room was only on account of accumulation of stock and non-entry of stock in the

statutory record was because the appellant was under the impression that the only when goods are placed in the bonded store room they were to be entered in the statutory books of account. During the hearing of the case, learned Counsel for the appellant has emphasised that there was no evidence whatsoever to suggest that the appellant was carrying out or contemplating any clandestine removal and in these circumstances, confiscation and penalty were not justified.

4. Learned SDR has submitted that it is well settled that failure to enter finished goods in the RG-1 register would attract provisions of Rule 173Q of the Central Excise Rules [1992 (61) E.L.T. 240].

5. The confiscation in the present case is on the ground that the goods had not been accounted for. There is no allegation that any production has been disposed of without keeping accounts and payment of duty. The entire produce was physically available in the factory. The appellant had also informed the Excise Authorities as to why it is storing the goods outside the bonded store room. Therefore, there is no failure to account for the produce. Failure is only in entering the daily production in RG-1 register. The appellant also has explained the reason for the same. Even if that explanation is not strictly legal, the charge of not accounting for goods cannot arise from it. In the facts of the present case, punishment, if any, can only be for violation of the rules relevant to writing daily accounts. I am of the opinion that in the facts and circumstances of the present case, the confiscation and imposition of penalty were not justified. The impugned order is set aside and the appeal is allowed.