Commissioner of C. Ex. Vs. Supra Foundry Services (P) Ltd.

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SooperKanoon Citation : sooperkanoon.com/387579

Court : Karnataka

Decided On : Apr-11-2001

Reported in : 2001(132)ELT543(Kar)

Judge : M.F. Saldanha and ;R. Gururajan, JJ.

Acts : Central Excise Act, 1944 - Sections 11AB and 11AC

Appeal No. : Civil Petition No. 2094/2000

Appellant : Commissioner of C. Ex.

Respondent : Supra Foundry Services (P) Ltd.

Advocate for Def. : B.N. Gururaj and ;K.S. Ravishankar, Advs.

Advocate for Pet/Ap. : R. Veerendra Sharma, CGSC

Disposition : Petition dismissed

Judgement :
ORDER

1. We have heard the learned Counsel on both sides in this petition.

2. The petitioner's learned Counsel submitted that this is a case in which undoubtedly, the penalty that was levied was in respect of an incident that took place prior to the introduction of Sections 11AC and 11AB of the Act and it is his

contention that the imposition of a penalty would still be justified.

3. We refrain from reproducing the various submissions canvassed before us, because the respondent's learned Counsel has drawn our attention to the recent decision of Supreme Court reported in 2001 (128) E.L.T. 52 (S.C.), Commissioner of Central Excise, Coimbatore v. Elgi Equipments Ltd. In a short judgment, the Apex Court has reiterated the well settled proposition of law that a provision of the present Act cannot have retrospective application obviously in view of the fact that the consequences are penal.

4. We may only add that this is a case in which the Tribunal even set aside the imposition of the duty that was demanded by the Department in relation to the same set of charges and once the imposition of the duty is set aside, it only stands to reason that nothing really survives in the case and the imposition of the penalty would be a total absurdity. This being the position, we see no grounds for reference to the High Court.

5. The Civil Petition fails on merits and stands dismissed. No order as to costs.