Rajeev Mardia Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-28-2005

Reported in : (2005)(187)ELT275TriDel

Judge : R Abichandani, M T K.C.

Appellant : Rajeev Mardia

Respondent : Commissioner of Central Excise

Judgement :

1. Despite notice, the applicant has not appeared for hearing.

Therefore, the stay application is being decided on the basis of the evidence available on record.

2. Shri Rajeev Mardia, applicant has requested for staying the recovery of penalty of Rs. 1 Lakh imposed on him on the ground that there was no allegation against him that he had any reasons to believe or any knowledge that any goods were liable to confiscation or that he was concerned or dealt with any such goods.

3. Shri S.M. Tata, Id. SDR pleaded that the applicant was the Managing Director of M/s. Mardia Steel Ltd. The charge of under-valuing the goods by showing the factory gate prices much lower than the prices at which the goods were actually sold has been established against the main company, M/s. Mardia Steel Ltd. Shri Rajeev Mardia being the Managing Director of the Company cannot be unaware of the pricing pattern and sale of the goods at a higher price without payment of

appropriate duty. Therefore, he had full knowledge about the liability of confiscation of the goods also, which were being under-valued.

Therefore, penalty was correctly imposed on him.

4. On examining the record, we find that the adjudicating authority has came to a conclusion that Shri Rajeev Mardia in the capacity of his placement cannot claim that he was not aware of the fact that there was no sales to independent buyer at factory gate and goods sold at depot were charged to higher price as compared to assessable value, resulting in failure to discharge proper duty on the goods. Therefore, he had every knowledge that the goods were liable to confiscate. Therefore, the penalty was correctly imposed under Section 209A of Central Excise Act. We find that duty demand, in this case, was Rs. 72,61,528/-and a penalty of Rs. 1 Lakh was imposed on Shri Rajeev Mardia. He has not given any other acceptable reason for staying the recovery of the penalty. We, therefore, find no reason to stay the penalty imposed on Shri Rajeev Mardia. He is directed to pre-deposit the entire amount of penalty of Rs. 1 Lakh within a period of 4 weeks from today and report compliance by 2nd June, 2005.