

**Cce Vs. G.C. Electronics**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** May-02-2005

**Judge :** S Kang, Vice, A T V.K.

**Appellant :** Cce

**Respondent :** G.C. Electronics

**Judgement :**

1. Revenue filed this appeal against the Order-in-Appeal passed by the Commissioner (Appeals). The brief facts of the case are that the respondents are engaged in the manufacture of 'speakers' with the brand name 'Pankaj' and 'Pankaj' and the same were sold to M/s. Dinesh T.V.Electronics. Revenue issued a Show-cause Notice to the respondents for denial of benefit of small scale exemption on the ground that respondents were clearing the goods with the brand name of 'Dinesh'.

The Commissioner (Appeals) in the impugned order held that there was no evidence on record to prove that the brand names 'Dinesh' and 'Pankaj' do not belong to the respondents and allowed the benefit of small scale exemption.

2. The contention of the Revenue is that the proprietor of the respondent company Shri Gagan Chand in his statement specifically stated that the brand names do not belong to him. The admitted facts of the case are that the goods bearing the brand name 'Dinesh' are cleared to M/s. Dinesh T.V. Electronics and that with the brand name 'Pankaj' are cleared to M/s. Pankaj Electronics.CCE, Trichy v. Grasim

Industries Ltd. 2005 (99) ECC 713 (SC) : 2005 (121) ECR 371 (SC) have held that in case a manufacturer is using a trade name of some other party with the purpose of indicating a connection in the course of trade between the product and that person, the manufacturer is not entitled to the benefit of small scale exemption.

In view of this decision of the Supreme Court, we find that the order passed by the Commissioner (Appeals) is not sustainable and is set aside and restore the adjudication order as far as the duty is concerned and confiscation of the goods. However, taking into account the gravity of offence, it is not a case for imposition of any penalty.

Therefore, the penalty is not imposable. Redemption fine is also reduced to Rs. 10,000/-.

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