Chakra Circular Sacks Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Tamil Nadu

Decided On : May-24-2005

Judge : P Chacko

Appellant : Chakra Circular Sacks

Respondent : Cce

Judgement :

1. The lower authorities have demanded duty amount of Rs. 40,269/- from the appellants on certain quantity of duty-paid inputs which they had removed as such from their factory after availing Modvat credit during December 1995 to March 1996. Under the provisions of Rule 57F, they were required to pay central excise duty on such inputs as if the goods had been manufactured in their factory. Hence the demand raised by the authorities below.

2. The clearances of the inputs in question are covered by three invoices: Invoice No. 561 dated 18.12.95, Invoice No. 632 dated 13.1.95 and Invoice No. 635 dated 15.1.96. The inputs covered by the first of these invoices were removed from the appellant's Thirumangalam unit, a registered dealer, while the said invoice was issued by their Kappalur Unit, which manufactured the goods. The lower authorities held that clearance of the goods from premises other than that mentioned in the relevant invoice was irregular.

After hearing both sides, I find no reason to interfere with these findings of the lower authorities. As regards the remaining two invoices, the goods covered thereunder had been removed from the appellant's unit on 4.1.96, much before the invoices were issued.

According to the authorities below, this procedure is also not legally sustainable. Again, after hearing both sides, I have got to endorse the view taken by the lower authorities.

3. A penalty of Rs. 4,000/- was imposed on the appellant by the lower authorities under Rule 173Q on the ground of contravention of Central Excise Rules. After considering the submissions of both sides, I note that contravention of Rules is not much in dispute. Even the appellants have no case that whatever they did was regular and in accordance with law. Hence the penalty on them is irresistible. It has been submitted by ld. Counsel that the appellant is a small manufacturing unit and hence cannot bear such high penalty as the one imposed on them. I can hardly accept this submission inasmuch as it has been evident from the records that the appellant is maintaining various units for manufacturing and dealing in excisable goods and none of these has been shown to be defunct on account of financial hardships.