Sneh Silicate Inds. Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-14-2005

Judge : S Kang, Vice

Appellant : Sneh Silicate Inds. Ltd.

Respondent : Cce

Judgement :

1. Heard both sides. The appellants filed this appeal against the Order-in-Appeal passed by the Commissioner(Appeals).

2. Brief facts of the case are that the appellants are engaged in the manufacture of Sodium Silicate and were availing the benefit of Modvat credit in respect of the inputs used in the final product. On 25.3.98, the officers of revenue visited the factory of the appellants and during verification he found that Soda Ash which is an input was found in excess of 12.675 m.t. than the balance recorded in the statutory record. The shortage of 3.560 m.t. of Scrubber Liquor which is also found.

After issuance of SCN, the adjudicating authority confiscated the inputs found in excess and demanded duty in respect of the inputs found short and personal penalty of Rs. 5,000/- was imposed.

2. The contention of the appellants is that the soda ash was received just before the arrival of the Excise Officer, therefore, he could not enter in the stock of inputs.

The contention is that the invoices were detained by the officers of RTO which were subsequently released. The Manager of the appellants in his statement disclosed these facts. The appellants produced invoices issued by M/s. Ram Soap Factory/Jabalpur of Tata Chemicals Ltd. showing the duty payment in respect of the inputs found in excess. The contention is that without going into evidence produced by the appellants, the adjudicating authority confiscated the inputs.

3. In respect of shortage of Scrubber Liqure, the contention of the appellants is that measure was done on estimated basis, no actual weighment was made. Therefore, the demand is not sustainable.

4. In respect of the inputs found excess/ the Manager of the appellants disclosed to the officers, at the time of search regarding the receipt of the goods from distributor of Tata Chemicals Ltd. The appellants also produced the invoices issued by Ram Soap Factory, Jabalpur to show the clearance of the goods on 24.3.98 at 12.30 P.M. from Jabalpur and appellants are situated at Chhindwara which is at a distance of 250 kms. as disclosed by the appellants. The appellants also produced the copy of the transport document showing the transportation of the goods to the factory of the appellant. Revenue had not made any investigation from Ram Soap Factory regarding the issuance of an invoice to verify the actual position. In these circumstances, I find merit in the arguments of the appellants regarding the confiscation of soda ash found excess in the stock and in view of the explanation given by the appellants and the production of duty paid documents, the confiscation is not sustainable and set aside.

5. In (sic) of the liquor which was found short/ I find that the quantity of the material which was found short is admitted by the Manager of the appellant at spot. Therefore, I find no infirmity in respect the demand of duty in respect of input found short and the impugned order is confirmed to that extent. Keeping in view the facts and circumstances of the case as the confiscation is set aside penalty is reduced to Rs. 1,000/-. Appeal is disposed of as indicated above.