Commissioner of Central Excise Vs. Krishna Filaments

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SooperKanoon Citation : sooperkanoon.com/39508

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jun-28-2005

Reported in : (2005)(189)ELT175Tri(Mum.)bai

Judge : S T S.S., T Anjaneyulu

Appellant : Commissioner of Central Excise

Respondent : Krishna Filaments

Judgement :

2. Respondents are an EOU, who cleared goods to the DTA unit. Notices date 5.5.95, 25.6.95 & 13.11.95 were issued. A.C. ordered withdrawal of demands. Revenue filed an appeal to CCE(A). CCE(A) found that no evidence or details of the market enquiry was indelicate in the show cause notice and in absence of such details there was no scope to apply Rule 6(b)(I) of valuation rules and rejected the appeal. Revenue is again come up in appeal to the Tribunal.

3. Perusal of the grounds do not indicate any material which could be relied upon to upset the CCE(A) order. Mere assertion that the assessee has not refuted the market price quoted in the notice will not induce us to upset the order. Moreover, for valuation of removals from a DTA the market price in India is not relevant to arrive at a valuation required as prescribed under second proviso to Section 3 of the Central Excise Act, 1944. Therefore, we find no reason to uphold the valuation as proposed in the notice and differential demands made on basis of the assessable values of comparable goods manufactured by one M/s Sunil Plastic of

Dhule in this case.