

Elite Plywood Industries Pvt. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-04-2005

Reported in : (2005)(189)ELT463TriDel

Judge : P Bajaj

Appellant : Elite Plywood Industries Pvt.

Respondent : Cce

Judgement :

1. In this appeal, the appellants have contested the correctness of the impugned order-in-appeal, vide which the penalty of rupees 10.000 has been imposed under Rule 173Q read with Section 38A of the excise Act on them. The learned Counsel has contended that the appellant Company has nothing to do with the trading business of Smt. Shakuntla Devi, which she is running in the adjoining premises and that both the premises have got two separate entrances. But his contention cannot be accepted for want of corroborative evidence. Mere existence of two entrances did not lead to an inference that the trading and manufacturing activities are being carried out separately in the premises. The premises have got one property number and there is no evidence to suggest if there exists any intervening wall separating the manufacturing unit of the appellants and the trading unit of Shakuntala Devi. The plea of the appellants that they have taken out one portion of building on rent from Smt. Shakuntala Devi. who is carrying out the trading activity in the other part of that building, also cannot be accepted for want of any tangible evidence to corroborate the same. Since the trading and

manufacturing activities have been carried out in the same premises without permission of the Department, the appellants had been rightly penalized.

2. The amount of penalty imposed on them is also reasonable. Therefore, the impugned order is up-held and the appeal of the appellants is dismissed.

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