Commissioner of Central Excise Vs. Sterling Electricals Mfg. Co.

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SooperKanoon Citation : sooperkanoon.com/39625

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jul-07-2005

Judge : S T S.S., T Anjaneyulu

Appellant : Commissioner of Central Excise

Respondent : Sterling Electricals Mfg. Co.

Judgement :

1. The Revenue is in appeal aggrieved by the Order-in-Original passed by the Commissioner of Central Excise, Mumbai.

2. The facts in brief are that M/s. Sterling Electricals Mfg. Co. were engaged in the manufacture of excisable goods viz. Bi-metal contacts falling under Chapter Heading 85.38. On investigation pursuant to the intelligence that M/s. Sterling Electricals Mfg. Co. were evading Central Excise duty by effecting clearance of "Bi-Metal contact" on delivery challans of trading firms, it was found that M/s. Sterling Electricals Mfg. Co. manufactured and removed Bi-Metal contacts clandestinely without accounting for the production/removal in statutory records and without payment of Central Excise duty.

Therefore, a Show Cause Notice dated 30.06.1999 was issued demanding the duty and proposing penalty and interest under Section 11AB of the Central Excise Act, 1944 and confiscation of the goods.

3. On adjudication, the Commissioner of Central Excise, Mumbai, confirmed the duty and also imposed penalty as proposed in the Show Cause Notice. The Board has reviewed the order and found that the same is not correct and legal and directed the Commissioner of Central Excise, Mumbai, to file an appeal before the Tribunal. Hence this appeal.

4. As seen from the grounds of appeal, the Revenue wants implementation of provisions of Section 11AC and Section 11AB retrospectively.

5. Following the decision in the case of CCE v. Elgi Eqipments Ltd. , the appeal filed by the Revenue cannot