

Commissioner of C. Ex. Vs. Kaveri Lime Industries Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-09-2005

Reported in : (2005)(189)ELT285TriDel

Judge : P Bajaj

Appellant : Commissioner of C. Ex.

Respondent : Kaveri Lime Industries Ltd.

Judgement :

1. In these appeals the Revenue has contested the correctness of the impugned order-in-appeal vide which the Commissioner (Appeals) has dropped the duty demand of Rs. 20,068/- with penalty of Rs. 20,000/- against the respondents as confirmed by the adjudicating authority, by reversing the order-in-original of that authority.

2. The duty demand has been raised against the appellants who are engaged in the manufacture of excisable goods, on the basis of simple information supplied by the Trade Tax Officer Incharge of Sahayata Kendra vide letter dated 23-12-1999, regarding the details of the invoices of the consignments passed through that Kendra, as on co-relation of that information with the invoices issued by the appellants, the value of the goods as well as the duty paid thereon, was found less. The Revenue presumed that duplicate invoices have been used by the appellants for clandestine removal of the goods without payment of duty. The adjudicating authority on the basis of the above said information confirmed the

duty demand and even did not allow the cross examination of the Trade Tax Officer who supplied that information, in order to check the veracity of the same, when requested by the appellants. No excess or shortage of raw-material or the finished goods was found by the officers in the factory of the appellants on 2-12-1999, when they paid visit. The Commissioner (Appeals) under these circumstances has in my view, rightly reversed the order of the adjudicating authority and dropped the duty and penalties against the appellants for want of tangible evidence to prove the clandestine removal of the goods by them. Even the buyers to whom the goods were cleared in a clandestine manner, had not been identified, no incriminating document was also found in the factory premises of the appellants for proving the allegations of clandestine removal of the goods by them without payment of duty, during the period. Therefore, I do not find any illegality in the impugned order and the same is upheld. The appeals of the Revenue are dismissed.

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