

Commissioner of Central Excise Vs. Friends Industries

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-27-2005

Reported in : (2006)(193)ELT469TriDel

Judge : S Kang, Vice-

Appellant : Commissioner of Central Excise

Respondent : Friends Industries

Judgement :

1. Revenue filed this appeal against the order in appeal passed by the Commissioner (Appeals) whereby the confiscation of the goods which were found excess in the factory is set aside.
2. The contention of the Revenue is that weighment done in the presence of partner of the assessee and who signed the verification chart. In this case on the visit by the Revenue officers, the 20.810 MT of Angles and Channels of different sizes were found to be in excess as mentioned in the statutory record. The adjudicating authority confiscated the excess found in factory. The Commissioner (Appeals) set aside the order for confiscation on the ground that there was no actual weighment of the goods and difference was only calculated on the assumptions and presumptions basis.
3. Revenue produced the copy of Panchnama, which only shows, on verification, the certain goods were found in excess. The total quantity of goods found in the

factory is 535.870 M.T. The Revenue has not produced any evidence in this appeal where the actual weighment was conducted. For weighment of 535.870 MT, it requires a number of vehicles; as such quantity cannot be weighed in one go. The verification on estimate basis has no base for confiscation particularly when these are angles and channels of different sizes. In these circumstances, I find no infirmity in the impugned order. The appeal is dismissed.

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