Commissioner of Central Excise Vs. Mutual Mecaplast Ltd.

Commissioner of Central Excise Vs. Mutual Mecaplast Ltd.

SooperKanoon Citation : sooperkanoon.com/40691

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-31-2005

Judge : S T S.S.

Appellant : Commissioner of Central Excise

Respondent : Mutual Mecaplast Ltd.

Judgement :

1. M/s. Mutual Mecaplast Ltd. the Respondents herein, are engaged in the manufacture of moulded plastic goods for automobiles and electronic appliances. During the course of preventive check, the Central Excise Officers seized excess stock of finished goods valued at Rs. 10,43,615/- and Rs. 28,95,805/- found within and outside the BSR respectively, which was not entered in RG1 register, under the reasonable belief that the aforesaid goods were offending in nature and were liable to confiscation under provision of Central Excise Rules, 1944. The above seized goods were fully finished in ready for marketable condition. Also the goods were cleared by the party without debiting the Central Excise duty in RG23A Part II/PLA and thus committed offence in this regard which has also been admitted by the Manager and the Chairman of the said unit. The Commissioner (Appeals) in his Order-in-Appeal dated 4-8-2003 has not appreciated the fact that the unrecorded stock was not entered in RG1 register for a month which clearly established the intention of the offender to remove excisable goods without payment of duty. Further if such violation is viewed leniently then it may endanger the revenue where the entire trust is placed on records maintained by the

assessee.

2.1 After hearing both sides and considering the material and the law on the subject, it is found.

(a) The Commissioner (Appeals) has noticed that the statement of Shri Parmar dated 20-12-2000 has been challenged by him on 9-11-2001 and also there is nothing on record to indicate that the appellant made any attempt to remove the goods under seizure, clandestinely with intent to evade duty. Thereafter applying the law, as held in various decision of this Tribunal, that there should be independent evidence to show that there was an intent to remove the goods clandestinely without discharge of duty and since the same is absent, the liability to confiscation of the goods was set aside.

(b) On the failure of the Respondents in not entering the goods in the RG1, he reduced the penalty under Rule 173Q to Rs. 2000/-, the maximum prescribed under the rule for non maintenance of correct stock book.

(c) The sold ground taken by the Revenue of the goods not entered for a month will not by itself call for establishing an intent. A person intending to clandestinely remove goods without payment of duty, would be quick to remove the same and not await the risk of detection by keeping the same in his factory for over a month unaccounted.

(d) No merits are found in Revenue's appeal to upset the Commissioner of Central Excise (Appeals) order based on correct appreciation of material evidences absence in this case and the application of the case law.