

**Hindustan Cables Ltd. Vs. C.C.E**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Dec-15-2005

**Reported in :** (2006)(198)ELT527TriDel

**Judge :** A Wadhwa, N T C.N.B.

**Appellant :** Hindustan Cables Ltd.

**Respondent :** C.C.E

**Judgement :**

1. Vide impugned order Commissioner of Central Excise has rejected the appellant's prayer of remission of duty in respect of the goods destroyed by fire and has confirmed the Central Excise duty of Rs. 45.18 lakhs in respect of the said damaged goods and has also imposed personal penalty of identical amount under the provisions of Section 11AC read with Rules 25 and 26 of the Central Excise Rules, 2002.

2. There is no dispute on the fact that the fire broke into the appellant's factory on 17.3.2002 and the same was reported to the Revenue on 18.3.2002. Heavy loss of excisable goods that is manufactured electric cables along with drums occurred in the said fire. The appellant claimed remission of duty in respect of such damaged goods on the ground that the loss was on account of natural cause and un-avoided reasons. However, the Commissioner has referred to the report of Chief Fire Officer stating that the fire spread on account of casual approach of factory for storage of O.F.C. in the open space and improper arrangement of fire safety

measure inside the factory However, the appellant's contention is that breaking of the fire was an incident, which occurred unexpected and resulted in uncontrollable fire. The Commissioner's finding that the appellant has not maintained proper fire safety measure inside the factory is against the subsequent report given by the fire Officer.

3. After hearing the learned Departmental Representative of the Revenue, we fully agree with the appellant's contention that fire incident took place Un-expectedly and the appellant having taken all the precautions, thereafter, immediately to prevent the spreading of fire, bring the incident under the category of unavoidable accident.

The fire report spells on the cause of fire, which has taken out side the factory premises on account of stray cigarette butts thrown by passerby and spread inside through the gap in the boundary wall where dry leaves and bushes had accumulated. The above sequence of cause of fire clearly shows that it was not on account of any negligence on the part of the appellant and as such he is entitled for the remission of duty under the provisions of law. Accordingly, we set aside the impugned order and allow the appeal with consequential relief, if any, to the appellant.

4. It may be mentioned here that the appellant is a Public Sector Undertaking and while granting permission to pursue the appeal before the Tribunal, High Power Committee On Dispute had observed that the permission is being granted subject to the appellant furnishing a Bond that once the remission of duty is granted to them, they would withdraw the insurance claim from the Insurance Company. Learned Advocate appearing for the appellant submits that they would make no such claim from the Insurance Company. The appeal is being allowed subject to the above rider. The appeal is disposed of in above terms.

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