Sneh Silicate Industries Vs. C.C.E.

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SooperKanoon Citation : sooperkanoon.com/42442

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-18-2006

Reported in : (2006)(108)ECC631

Judge : S Kang, Vice, N T C.N.B.

Appellant : Sneh Silicate Industries

Respondent : C.C.E.

Judgement :

2. Applicant filed this application for waiver of pre-deposit of duty of Rs. 49,06,425/- and equal amount of penalty. The applicants were undertaking a job work for which some raw materials were supplied by M/s Hindustan Lever Ltd. (HLL) to the applicant and thereafter, returned the goods after processing to M/s HLL and availed the benefit of Notification No. 214/86-CE dated 25.3.86. The benefit of this Notification was denied to the applicant on the ground that in addition to the raw materials supplied by M/s HLL, the applicants were also procuring bleaching powder and silicate sent from their own account and using in the processing of the goods.

3. Revenue has relied on the decision of the Hon'ble Supreme Court in the case Prestige Engineering Ltd. v. C.C.E. . In this case, the Hon'ble Supreme Court held that job worker contributes their own material to the article supplied by the customer and manufacturers different goods, it does not amount to job work. However, addition of minor item by the job worker would not detract it being a job

worker. The contention is that in the present case, the applicants were using raw material, of which is of negligible value as compared to the raw materials supplied by M/s HLL. The applicant also pleaded that part of demand is time barred as the applicant's manager informed the revenue that some raw materials are being received by the applicant without payment of duty for further processing and therefore, no suppression can be alleged against the appellant. A Show-cause Notice was issued on 25.2.2005 demanding a duty demand of about Rs. 40 lakhs for the period 22.2.2000 to 31.3.2003. The applicants also pleaded that as the goods are being sent under Rule 57F(4), therefore, duty liability is on the supplier of the raw material by M/s HLL as held by the Tribunal in the case of M. Tex & D.K. Processors (P) Ltd. v. C.C.E., Raipur - 2000 (91) ECR 588 (T).

Keeping in view the facts and circumstances and the decision of the Tribunal in M. Tex & D.K. Processors (P) Ltd. and also the argument on the time-bar, prima facie, we find that applicant has a strong case and therefore, pre-deposit of duty and penalty is waived for hearing the appeal.