Swastik Wires Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-19-2007

Reported in : (2007)(117)ECC467

Judge : S Kang, Vice

Appellant : Swastik Wires

Respondent : Cce

Judgement :

1. Heard both sides. The appellants filed this appeal against the impugned order whereby demand is confirmed and penalty of equal amount is imposed. The contention of appellants is that they starting manufacturing copper wire of cross sectional dimension of 7mm falling under Chapter Heading 7408.11 of Central Excise Tariff and started availing the benefit of Notification No. 9/2000. The appellants filed the necessary ER-I return for the period April 2002 to September, 2002 and it was found that the goods manufactured by the appellants are not specified goods under the Exemption Notification No. 9/2000. Show cause notice was issued to the appellants asking for differential duty and imposition of penalty.

2. The contention of appellants is that they arc not liable for penal action as there was no intention to evade payment of duly. They filed the necessary declaration ER I returns, and from these returns, the Commissioner came to know that the appellant had paid less duty. As there was no intention to evade payment of duty, imposition of penalty is not sustainable.

3. The contention of revenue is that appellants were availing the benefit of notification for which they arc not eligible and cleared the goods at confessional rate of duty, therefore, they contravened the provisions of Central Excise rules and liable for penalty.

4. Admitted facts are that the appellants started clearing the goods under Notification No. 9/2000 at concessional rate of duty. The appellants are not eligible for the benefit of notification as the goods manufactured by the appellants are not specified goods and this fact is not disputed by the appellants. The only contention is that no suppression or intention to evade payment of duty is on the part of the appellants. I find that the appellants had cleared the goods under notification for which they were not entitled. Therefore, they are liable for penalty. Taking into consideration the facts and circumstances of the case, the penalty is reduced to Rs. 50,000/-, otherwise, the impugned order is upheld.