

Pipelines and Process Equipments Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Tamil Nadu

Decided On : Nov-01-2007

Reported in : (2008)(125)ECC89

Judge : P Chacko, K T P.

Appellant : Pipelines and Process Equipments

Respondent : Commissioner of Central Excise

Judgement :

1. After examining the records and hearing both sides, we are of the view that the appeal itself requires to be finally disposed of at this stage. Accordingly, after dispensing with predeposit, we take up the appeal.

2. The appellants had undertaken a job work for M/s. Walchandnagar Industries Limited (hereinafter referred as 'principal manufacturer') during the period April to September 2000. As part of the job work, they received inputs from the principal manufacturer, processed the same and returned the processed goods to the principal manufacturer without paying duty, availing the benefit of Notification No.214/86-CE. The principal manufacturer also did not pay duty on the goods at the time of its clearance from their factory. Apparently, they were claiming the benefit of another exemption Notification. However, subsequently, they paid the duty amounting to Rs. 10,04,000/-. Later on, the department issued show-cause notice dated 20.4.2005 to both the appellants and the principal manufacturer denying the benefit of Notification No. 214/86-CE ibid to the former and proposing

to appropriate the payment made by the latter towards the demand on the former. The notice also sought to recover interest under Section 11AB of the Central Excise Act from the appellants, apart from proposing penalties on both the parties. The appellants contested the demands raised on them. In adjudication of the dispute, the original authority confirmed the demand of duty against the appellants by denying them the benefit of Notification No. 214/86-CE *ibid*, appropriated the amount paid by the principal manufacturer towards such demand, asked the appellants to pay interest on the duty amount and imposed a penalty on the principal manufacturer. The appeal filed by the appellants against the above decision of the original authority was dismissed by the Commissioner (Appeals). Hence the present appeal of the job worker.

3. Id. Counsel for the appellants has relied on the decision of this Bench in *Tansi Structurals Ltd. v. CCE, Tricky* 2007 (213) ELT 107 (Tri.

Chennai), wherein the benefit of Notification No. 214/86-CE was allowed to the said Company (job worker) in respect of certain job-worked goods supplied to the principal manufacturer. The Counsel has submitted that the appellants had substantially complied with the procedural requirements under Notification No. 214/06-CE and that the principal manufacturer paid duty on the job-worked goods albeit belatedly. In the circumstances, according to Id. Counsel, any demand of interest could be raised on the principal manufacturer only and not on the appellants.

We have heard Id. SDR also, who has reiterated the findings recorded in the impugned order.

4. Having considered the submissions, we note that the appellant as job worker had received inputs from the principal manufacturer under Rule 57F(4) challans and, after the job work, returned the product to the principal manufacturer, by availing the benefit of Notification No.214/86-CE. Apparently, such removal of goods to the principal manufacturer was also effected under the above challan. It is also noticed that the requisite declaration had been filed by the principal manufacturer as a part of the procedure laid down under Notification No. 214/86-CE. The only infirmity on the part of the principal manufacturer was that they did

not pay duty on the goods at the time of its clearance from their factory. Apparently, the principal manufacturer was availing the benefit of Notification No. 6/2000-CE. However, when pointed out by the departmental investigators, they paid the duty, a fact acknowledged by both of the lower authorities. The show-cause notice was issued only on the basis of the initial non-payment of duty by the principal manufacturer. On the facts of this case, the delay on the part of the principal manufacturer in paying duty on the job-worked goods should have been condoned.

5. In any case, the Revenue, having accepted payment of duty by the principal manufacturer in terms of Notification No. 214/86-CE *ibid*, could not have demanded interest thereon from the job worker. In the present appeal, the grievance of the job worker is against this demand of interest as well as against the confirmation of demand of duty against them. Neither of these demands is sustainable against the job worker on the facts of this case.

In the result, the impugned order is set aside and this appeal is allowed.

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