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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-28-2007

Reported in : (2008)(126)ECC197

Judge : P Das

Appellant : Mohan Generator and Pumps (P) Ltd.

Respondent : Cce

Judgement :

1. The relevant facts of the case, in brief, are that the appellants are engaged in the manufacture of Generating Set, A.C. Generators and Centrifugal Water Pumps falling under Chapter sub-heading No. 8502.00, 8501.00 and 8413.10 of the Central Excise Tariff Act, 1985. On 3.11.1995, the Central Excise Officers visited the appellants' factory and verified the stock. The said officers detected the excess stock of finished goods, which were seized by them. The adjudicating authority confiscated the seized goods with an option to redeem the same on payment of redemption fine of Rs. 15,000/- and penalty of Rs. 7,000/-.

The Commissioner (Appeals) upheld the adjudication order.

2. Ld. Advocate on behalf of the appellant submits that Panchnama was prepared in irregular manner inasmuch as it is revealed from the Affidavit that Panchas were not present at the time of stock verification. He further submits that the seized goods were not complete finished goods and, therefore, they have not recorded in

their RG-I register. He further submits that in any event, the redemption fine and penalty are excessive. He relied upon the decision of the Tribunal in the following cases:Commissioner of Central Excise, Nashik v. Vimal Wire & Metal IndustriesMazzindia (P) Ltd. v. CCE, Meerut 3. Ld. DR submits that non-accountal of the goods is established. He further submits that the Tribunal in the case of PNP Castings (P) Ltd. v. CCE, Lucknow 2006 (194) ELT 250 (Trib.-Delhi) held that confiscation, redemption fine and penalty are justified in case of the non-accountal of the 4. After hearing both the sides and on perusal of the records, it is seen that on 3.11.95, the Central Excise officers detected the excess stock during the stock verification. In their reply to the show cause notice dated 2.1.97, the appellant explained the reason that the goods were in the process of manufacturing activities. I find that no explanation was given by the appellant before issue of show cause notice. There is contravention of rules for non-accountal of the goods.

Hence, confiscation and imposition of penalty are justified. However, I agree with the ld. Advocate that the amount of redemption fine and penalty are excessive. It is seen that the duty is involved of Rs. 16,829.00. So, the redemption fine is reduced to Rs. 10,000/- (Rupees Ten Thousand only). The Tribunal in the case of Vimal Wire & Metal Industries (supra) held that non-accountal of the goods in RG-I without mens rea only a minor offence and attracts a penalty of only Rs. 2,000/- under Rule 226 of erstwhile Central Excise Rules, 1944.

Accordingly, the penalty is reduced to Rs. 2,000/- (Rupees Two Thousand only). The appeal is disposed of in the above manner.

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