

Tej Enterprises Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-17-2007

Judge : P Das

Appellant : Tej Enterprises

Respondent : Cce

Judgement :

1. The appellant filed this appeal against rejection of remission application filed under Rule 49 of the erstwhile Central Excise Rules, 1944.

3. The findings of the Commissioner of Central Excise are reproduced below: From the above, it is established beyond doubt that "Had the party taken all the safeguards & proper infrastrucrural management in the factory to prevent the fire, there would had not been such a major fire accident." Thus, it can be safely concluded that the fire accident that occurred in party's factory on 28.4.1995 cannot be said to have occurred due to natural causes, beyond the control of the party.

4. I find that the Tribunal in its series of decisions held that remission of duty cannot be denied on the ground that the assessee has not taken sufficient safeguards. Some of the decisions are given below:Onida Savak Limited v. CCE, Noida 2004 (176) ELT 143 (Tribunal-Delhi).Shiva Essentials Oils & Chemicals v. CCE, Noida .

5. In the case of New Phaltan Sugar Works Ltd. (supra), the Tribunal observed that it does not give any benefit or pleasure to the manufacturer to see his products destroyed. Combustion in molasses is a very serious affair controlling which is almost impossible. The rules do not prescribe any procedure for the assesseees to follow to ensure that their goods are not destroyed. Further, in the case of Onida Savak Limited (supra), it has been held that Rule 49 of erstwhile Central Excise Rules, 1944 does not contemplate an investigation and determination regarding preventability of natural cause or accident.

6. In the present case, there is no dispute that fire accident was occurred. The Commissioner disallowed the remission claim on the ground that the appellant had not taken all safeguards and proper infrastructural management in the factory, which is beyond the scope of the Rules. Therefore, the impugned order is set aside and the appeal is allowed with consequential relief.

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