Sonali Cables Vs. Commissioner of Central Excise

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Court : Madhya Pradesh

Decided On : Feb-04-2005

Reported in : 2005(186)ELT278(MP)

Judge : A.M. Sapre and ;Ashok Kumar Tiwari, JJ.

Acts : Central Excise Act, 1944 - Sections 35G

Appeal No. : M.A. No. 252 of 2005

Appellant : Sonali Cables

Respondent : Commissioner of Central Excise

Advocate for Pet/Ap. : Asudani, Adv.

Disposition : Appeal dismissed

Judgement :
ORDER

A.M. Sapre, J.

1. This is an appeal, filed by assessee under Section 35G of the Central Excise Act, 1944 against an order dated 8-10-2004, passed by Customs, Excise and Service Tax Appellate Tribunal (hereinafter for short Tribunal') in Appeal No. E/3723/2004-NB(C).

2. Heard Shri Asudani, learned Counsel for the appellant.

3. Having heard learned Counsel for the appellant (assessee) and having perused record of the case, we are of the view that appeal has no merit and hence, it is liable to be dismissed in limine. In other words, the appeal does not involve any substantial question of law and hence, it must merit dismissal in limine.

4. Indeed mere perusal of the impugned order would indicate that the same being based on cogent reasoning, it does not call for any interference. As a matter of fact, it is based on appellants own admission wherein it is admitted that appellants firm was manufacturing the goods under various brand names belonging to different traders. This fact was not disputed by the appellant at any time and hence, it is a conclusive proof against the appellant for holding that he was manufacturing branded goods under the brand name of other person.

5. What is, therefore, involved in this case is pure question of fact and not any question of law much less substantial question of law. In order to admit any appeal under Section 35G ibid, there must arise any substantial question of law and then only, the appeal can be admitted, else not.

6. Learned Counsel for the appellant then placing reliance on Explanation (ix) to the notification (Annexure B) urged that its effect was not considered in the facts of the case. We do not find any merit in this submission. No such argument was raised by the appellant before the Tribunal in appeal nor was any finding invited. In this view of the matter, we cannot entertain such plea in abstract form for the first time in second appeal.

7. In view of aforesaid discussion, the appeal fails and is dismissed in limine.