

Standard Industries Ltd. Vs. Collr. of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-26-1993

Reported in : (1995)(75)ELT829Tri(Mum.)bai

Appellant : Standard Industries Ltd.

Respondent : Collr. of Central Excise

Judgement :

1. The duty amount has not been quantified. However, they are imposed a penalty of Rs. 8 lakhs, for which the stay application has been moved.
2. Shri Srinivasan, the learned consultant, pleads that the order indicates that some duty will be worked out by the Asstt. Collector on the basis of the guidelines outlined in the order by him and that duty demand, which is yet to be worked out, has been confirmed by him under Section 11A. Such an action is not permissible under Section 11A. If the duty specified in the show cause notice is sought to be modified, the revised duty amount, on adjudication, has to be determined by the adjudicating authority. However, he does not press for remand of the case on this ground. In any case, there is no mala fide in the case warranting imposition of penalty.
3. After hearing both the sides, we find that duty demand has not been determined as yet. Hence penalty cannot prima facie be enforced without quantifying the duty. We grant stay and waiver of deposit of penalty, leaving the liberty to the applicant to revive the stay application, as and when the duty amount is quantified.

