Commissioner of Central Excise Vs. Intergraph Technologies

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SooperKanoon Citation : sooperkanoon.com/715779

Court : Delhi

Decided On : Sep-15-2006

Reported in : 2007[5]STR8

Judge : Madan B. Lokur and; Vipin Sanghi, JJ.

Appeal No. : CEAC No. 13 of 2005

Appellant : Commissioner of Central Excise

Respondent : intergraph Technologies

Advocate for Pet/Ap. : Gaurav Duggal, Adv

Disposition : Appeal dismissed

Judgement :
ORDER

1. The Revenue is aggrieved by an order dated 6th August, 2004 passed by the Customs, Excise and Gold (Control) Appellate Tribunal in Appeal No. E/818/04-NBA.

2. The Respondent is alleged to have evaded excise duty and the Adjudicating Authority had imposed a penalty of Rs. 2,43,113/-.

3. The Respondent filed an appeal which was taken up by the Commissioner of Central Excise (Appeals) and by her order dated 20th January, 2004, the penalty

was reduced to Rs. 1 lakh in view of the nature of the offence.

4. Feeling aggrieved, the Revenue preferred an appeal before the Tribunal in which it appears to have contended that on the facts of the case since the Respondent did not disclose the correct information, maximum mandatory penalty ought to have been retained.

5. Clearly, the argument of the Revenue proceeded on the basis that the amount could have been reduced by the Commissioner (Appeals) but on the facts of the case it ought not to have been reduced.

6. The quantum of penalty is discretionary and we do not find any error in the exercise of jurisdiction by the Commissioner (Appeals) in reducing the penalty.

7. In any case, no substantial question of law arises out of the order of the Tribunal.

8. The appeal is dismissed.