Sharp Tools Vs. Commissioner of Central Excise, Coimbatore

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Chennai

Decided On : Feb-01-2011

Judge : The Honourable Ms. Jyoti Balasundaram, Vice-President &Amp; the Honourable Dr. Chittaranjan Satapathy, Technical Member

Appeal No. : Appeal Nos.E/763/04 & E/764/04 [Arising out of Order-in-Appeal No.91 & 92/2004-CE dt. 1

Appellant : Sharp Tools

Respondent : Commissioner of Central Excise, Coimbatore

Advocate for Pet/Ap. : Shri M.Saravanan, Consultant. Shri T.H.Rao, SDR.

Judgement :

Per Jyoti Balasundaram

In both these appeals, interest has been demanded from the assessees for the reason that they had not paid duty amount on fortnightly basis as per Rule 173G (1) (a) of the erstwhile Central Excise Rules, 1944 but instead paid on monthly basis and therefore there was a delay in payment. In appeal E/764/04 covering the period from Jan-01 to Aug-01 a penalty of Rs.3000/- has been imposed.

2. We have heard both sides. As per Rule 173G (1) (a), every manufacturer, other than a manufacturer who is availing exemption under a notification based on value of clearances in a financial year, is liable to pay duty in respect of clearances of

excisable goods - (i) during the first fortnight of the month, by the 20th day of that month (ii) during the second fortnight of the month, by the 5th day of the succeeding month and (iii) during the second fortnight of March month, by the 31st day of March. The assessees being SSI unit, are availing exemption under a notification which is based upon the value of clearances in a financial year, therefore, assessees are not required to pay duty in respect of all clearance of goods on fortnightly basis. Reliance placed by the Revenue on Circular No.547/43/2000-CX. dt. 11.9.2000 to the effect that if in any unit, which may also be owned by small scale manufacturer, only branded goods for others are manufactured on which normal rate of duty is payable, then benefit of Rule 173GG / 173GG (1) cannot be claimed, is contrary to the provisions of relevant Rules and, therefore, cannot be relied upon for the purpose of holding that assessees were required to pay duty on fortnightly basis.

3. In the light of the above, we set aside the interest demands and penalty and allow the appeals.