(2015) 07 SC CK 0024

In the Supreme Court Of India

Case No : Civil Appeal Nos. 7431-7433 of 2005

Commissioner of C. Ex., Chennai-III — APPELLANT

Vs

Ranka Wires Private Ltd. — RESPONDENT

Date of Decision : 23-07-2015

Acts Referred:

Citation : (2015) 322 ELT 410

Hon'ble Judges : A.K. Sikri and Rohinton Fali Nariman, JJ.

Bench : Division Bench

Advocate : S/Shri S. Nanda Kumar, R. Satish Kumar, Parivesh Singh, Ms. Jyoti Sharma and V.N. Raghupathy, Advocates, for the Respondent; S/Shri K. Radhakrishnan, Senior Advocate, Subas C. Acharya, Arijit Prasad, T.M. Singh and B. Krishna Prasad, Advocates, for the Petitioner

Final Decision : Allowed

Judgement

1. M/s. Ranka Wires Private Limited, Hosur, the first respondent herein, were the manufacturers of insulated wires falling under Chapter Heading 85.44 of the Central Excise Tariff Act. It is the case of the Revenue that from the investigation conducted by the officers of Central Excise, it appeared that the first respondent have floated two units in the name and style of M/s. Ranka Alcop, the second respondent and M/s. Insulated Wires Manufacturing Company, the third respondent and split the value of clearances into three so as to evade payment of duty by wrongly availing of exemption contained in Notification No. 175/86, dated 1-3-1986 and Notification No. 1/93, dated 28-2-1993.

2. Clubbing the two units, the assessing authority had passed the order of assessment after issuance of the show cause notice dated 28-4-1997 relating to the assessment years 1992-1993 to 1995-1996. Since the show cause notice was beyond the normal period of limitation prescribed under Section 11A of the Act, proviso of the said provision was made use of in order to avail the extended period of limitation. The Commissioner, after hearing the respondents herein, confirmed the findings and rejected the contention of the respondents to the

effect that the extended period of limitation would not be applicable.

3. Before the Customs, Excise and Service Tax Appellate Tribunal (hereinafter referred to as ''CESTAT''), the respondents did not challenge the finding of the Commissioner on merits. The only ground raised was that it is beyond the period of limitation and the Revenue could not invoke the proviso to Section 11A of the Act inasmuch as there was no suppression.

4. We may record that the extended period of limitation was invoked on the ground that the respondents had not stated about the proprietory interest in any other factory. It was argued by the respondent that there was no such requirement and therefore, by not mentioning the aforesaid fact, no suppression was made of any material. This contention was accepted by the CESTAT holding the show cause notice to be time-barred. The CESTAT has also recorded that Revenue could not show that disclosure of financial matters by the assessee to the Department was legally required during the material period. This could not be refuted before us.

5. We are thus, of the view that the order of the CESTAT [2005 (187) E.L.T. 374 (Tribunal)] is without any blemish. Finding no merit in these appeals, the same are dismissed.