(2006) 08 P&H CK 0415

In the Punjab And Haryana At Chandigarh

Case No : C.E.A. No. 53 of 2005

Commissioner of Central Excise Commissionerate APPELLANT

Vs

Vallabh Steel Ltd. RESPONDENT

Date of Decision : 07-08-2006

Acts Referred:
Central Excises and Salt Act, 1944 — Section 35(C)(1)

Citation : (2006) 203 ELT 208 : (2008) 11 STR 101

Hon'ble Judges : Rajesh Bindal, J;A.K. Goel, J

Bench : Division Bench

Advocate : Gurpreet Singh, for the Appellant; Deepak Bajaj, for the Respondent

Final Decision : Dismissed

Judgement

1. The Revenue has approached this Court by filing the present appeal, raising the following substantial question of law:

Whether u/s 35(C)(1) of the Central Excise Act, 1944, the Tribunal is correct in deciding an issue which was not the subject matter of the order appealed against by the party

2. The primary contention raised by the counsel for the Revenue is that the Tribunal could not go into the issue which was not subject matter of the order appealed against. The dispute in the present case is about the claim of abatement made by the assessee.

3. We have perused the order passed by the Commissioner, wherein while accepting the claim of the assessee as far as the abatement claim for a sum of Rs. 9,29,830/- for different periods, recovery of Rs. 34,224 was ordered. In addition to this, penalty of the equal amount was also imposed. It was this order passed by the Commissioner on 19.2.2004 that the assessee was in appeal before the Tribunal and the Tribunal while accepting the appeal, quashed the demand of duty and the penalty. In these facts, the contention raised by the counsel for the Revenue is totally misconceived and liable to be rejected.

4. Accordingly, the appeal of the Revenue is dismissed being devoid of merit. Before parting with the order, we are constrained to observe again that the Central Board of Excise and Customs should look into the matter with regard to filing of appeals in the matters involving petty amount, as in the present case.