(1983) 12 AP CK 0010

In the Andhra Pradesh High Court

Galada Continuous Castings Ltd. APPELLANT

Vs

Collector of Central Excise, Hyderabad and Others RESPONDENT

Date of Decision : 28-12-1983

Acts Referred:

Citation : (1985) 19 ELT 408

Hon'ble Judges : Ramaswami, J;A. Raghuvir, J

Bench : Division Bench

Judgement

Raghuvir, J.—M/s. Galada Continuous Castings Limited (the firm) manufacture Aluminium wire rods. This case relates to excise duty payable by them the firm under Central Excise Act, 1944 and Rules. The issue relates to seven gate passes 238 to 244 which were produced by the firm on March 1st, 2nd and 4th of that month in 1976. The seven passes were subject matter of an enquiry and in the impugned order on June 22, 1978 the Special Secretary to the Government of India passed the redemption (fine) order.

2. The goods covered by seven gate passes 238 to 244 the issue was whether the firm made the debit entries in corresponding records referred as R.G. 23 records. The finding was the firm did not record in R.G. 23. In violation Rules, therefore, penalty was levied and confiscation of goods was also ordered. In the impugned order the penalty was held to be unjustified and redemption (fine) was passed. The learned counsel for the firm argued placing reliance on words `no intention to evade payment of duty'' contained in Rules 226 and 173-Q, the impugned order cannot be sustained. Various circumstances were relied to show there was no intention to contravene any of the provisions of the Act or the Rules. The counsel summed up to conclude the reasons which prompted the authorities to quash the penalty on the same parity of reasoning the impugned order should be quashed.

3. We are unable to agree with this assertion of the firm. It is seen the firm did not account for the goods produced by him. In that seven gate passes 238 to 244 on March 19, 1976 are not properly recorded in R.G. 23 record. There was

thus deviation of Clause (B) of Rule 173-Q. Having regard to this deviation the issue was whether the authorities were entitled to levy the redemption order. On a reading of Rule 173-Q and other cognate rules, the authorities have power to levy penalty as well as to order confiscation. In the instant case for one reason or the other, the authorities have found penalty is not sustainable. We do not wish to interfere with such a conclusion. The authorities held further goods were not appropriately accounted within the meaning of Clause (B) of Rule 173_Q. Therefore, the fine in the impugned order is passed. On the above conclusion the impugned order suffers from no vice, whatever. The writ petition for the aforesaid reasons fails and is dismissed. No costs.