(2003) 08 SC CK 0017

In the Supreme Court Of India

Case No : Civil Appeal No.15377 Of 1996

Quaser Electronics P. Ltd. APPELLANT

Vs

Collector of Central Excise, Bombay RESPONDENT

Date of Decision : 05-08-2003

Acts Referred:

Citation : (2003) 89 ECC 859 : (2003) 110 ECR 258 : (2003) 156 ELT 165

Hon'ble Judges : S. Rajendra Babu, J;G. P. Mathur, J

Bench : Division Bench

Advocate : S. Ganesh, Ramesh Singh, P. Venugopal and P.S. Sudheer, for K.J. John and Co, for the Appellant; Jaideep Gupta Meenakshi Sakhardande and B.K. Prasad, for the Respondent

Judgement

1. We do not find any merit in this appeal and the same is liable to be dismissed. However, on the question of penalty, Shri S. Ganesh, learned Senior Advocate for the appellants submitted that the basis upon which the authorities had proceeded are not accepted totally by the Tribunal but on the other hand it held that the goods in question, could have been sold to NELCO on a price at which the same had been sold to certain other parties through whom it is stated to have been conducted to them. When the basis for computation of excise duty has been altered by the Tribunal, it may not be correct to levy penalty. Therefore, in the facts and circumstances of the case we think there is no basis to levy any penalty upon the appellants. The order made by the authorities, as affirmed by the Tribunal is set aside to that limited extent. In other respects, the order of the Tribunal shall remain undisturbed.

2. The appeal is allowed in part to that extent of deleting penalty but dismissing on merits.

