(2020) 11 CESTAT CK 0020

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Excise Appeal No. 77118 Of 2019

Shri Basant Kumar Sahu Vice President (Commercial), M/s.MSP Sponge Iron Limited @Hash Commissioner Of CGST And CX, Rourkela Commissionerate

Date of Decision : 10-11-2020

Acts Referred:
Central Excise Rules, 2002 — Rule 26
Central Excise Rules, 1944 — Rule 209A

Citation : (2020) 11 CESTAT CK 0020

Hon'ble Judges : P. K. Choudhary, J

Bench : Single Bench

Advocate : Jitin Singhal, S.S.Chattopadhyay

Final Decision : Allowed

Judgement

1. Shri Basant Kumar Sahu, the appellant herein, is Vice President(Commercial) of M/s.MSP Sponge Iron Limited, Keonjhar. Vide Order-in-Original

No. ACCE/KJR/CE No.20/2018 dated 14.02.2018, in the case of MSP Sponge Iron Limited, a demand was confirmed. Vide the same order, a

penalty of Rs.48,81,921/- was imposed upon the appellant under Rule 26 of Central Excise Rules, 2002. The appellant had filed appeal on 24.04.2019.

The appeal of M/s.MSP Sponge Iron Limited being Excise Appeal No.77327 of 2019 was heard on 07.02.2020 and was disposed vide final Order

No.75326/2020 dated 28.02.2020. However, the appeal of the present appellant Shri Basant Kumar Sahu was not listed for hearing along with the

main appeal of M/s.MSP Sponge Iron Limited. The same has been listed for hearing today.

2. Shri Jitin Singhal, learned Advocate appearing on behalf of the appellant submitted that the appellant has no specific role in the alleged evasion of

duty and is merely an employee and having acted only in his capacity as an employee of the manufacturer, therefore, his case does not fall within the

purview of Rule 209A of the Central Excise Rules, 1944. The learned Advocate filed a copy of the Tribunalâ??s Final Order No.75326/2020 dated

28.02.2020 and also submitted that since the Order-in-Original dated 14.02.2018 and the Order-in-Appeal dated 31.05.2019 have been set aside in the

case of M/s.MSP Sponge Iron Limited, there is no occasion to maintain the penalty imposed on the present appellant Shri Basant Kumar Sahu.

3. Shri S.S. Chattopadhyay, learned Authorized Representative appearing on behalf of the Respondent Revenue justified the imposition of penalty.

4. Heard both sides through video conferencing and perused the appeal records.

5. As the appeal against the main appellant has been allowed, there is no question of any penalty on the other appellant Shri Basant Kumar Sahu.

Accordingly, the penalty imposed on Shri Basant Kumar Sahu, the appellant herein, cannot be sustained and the same is set aside. The appeal is thus

allowed with consequential relief, if any.

(Operative part of the order was pronounced in the open Court.