
(2010) 01 P&H CK 0228

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Commissioner of Central Excise

APPELLANT

Vs

Relaxo International

RESPONDENT

Date of Decision: Jan. 18, 2010

Acts Referred:

- Central Excises and Salt Act, 1944 - Section 14

Citation: (2010) 255 ELT 54

Hon'ble Judges: Mehinder Singh Sullar, J; Ashutosh Mohunta, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Ashutosh Mohunta, J.

The Revenue has filed this appeal challenging the order dated 28-4-2005 2005 (192) E.L.T. 1100 (Tri.-Del.), passed by the Customs, Excise and Service Tax Appellate Tribunal (for short "the Tribunal") vide which the demand raised by the Revenue has been set aside and consequential relief has been granted to the assessee-respondent.

2. The case of the Revenue is that the respondent who is a manufacturer of footwear in his factory premises in Gurgaon had removed certain final product without payment of duty. Mr. Gurpreet Singh, submits that physical verification of the stocks of the respondent was conducted by the officials of the Excise Department on 1-6-1998 and it was found that 1750 pairs of branded footwear were short and thus, the footwear were clandestinely removed and the respondent was liable to pay excise duty as well as penalty on the same for their removal without payment of duty. The Tribunal has given the following finding:

There is also no evidence to prove any clandestine removal of the goods by the appellants. There could not be even otherwise any removal of the goods on 1-6-98, as the removal of the goods could take place only with the prior permission from the officers. Under these circumstances, on the simple statement of Mr. Behal without preparing any document at the spot regarding the stock checking by the officers, the case against the appellants could not be made.

The question of law as raised by the Tribunal in the present appeal is "Whether statement recorded u/s 14 of the Central Excise Act, 1944 had sufficient evidentiary value to prove the clandestine removal of goods?". In the present case as a finding of fact has already been returned by the Tribunal and sufficient material was lacking to prove that there was clandestine removal, hence no substantial question of law arises for consideration in the present appeal. Apart from the above, the amount sought to be recovered by the Revenue is only Rs. 85,594/-, which is too meagre.

3. In view of the above, we find no merit in the appeal and the same is accordingly dismissed.