

**(2000) 12 CEGAT CK 0001**

**Customs, Excise and Gold Tribunal - Tamil Nadu**

**Case No:** E/1357/2K (ARISING OUT OF ORDER-IN-APPEAL NOS 100 TO 102/2000 (H-I) CE DATED 19 6 2000 PASSED BY THE COMMISSIONER OF CUSTOMS AND CENTRAL EXCISE (APPEALS), HYDERABAD)

C. C. E.

APPELLANT

Vs

Chowgule Matrix Hobs Limited

RESPONDENT

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**Date of Decision:** Dec. 12, 2000

**Hon'ble Judges:** S. L. Peeran, G. R. Sharma

**Final Decision:** Appeal dismissed

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**Judgement**

**S.L. Peeran, Member (J)**

1. The stay application and the appeal are taken up for final disposal as the issue lies in a short compass. The Commissioner (Appeals) by his order in appeal Nos. 100 to 102/2000(H-I) CE dated 19.6.2000 disposed of the appeal of the assessee by setting aside the penalties imposed on the three officers of the assessee i.e. S. V Shanmugam, Technical Director, Shri M.R. Bhat, Deputy General Manager and Shri Appala Raju, Sr Commercial Officer on the ground that the matter had been settled under the KVS Scheme and Form-3 has been issued by the Commissioner in full and final settlement. Therefore, the question of penalty on the officers did not arise. In this connection he also relied upon the decision of the Tribunal in the case of Z.U. Alvi v. CCE Bhopal as reported in . In this case the Revenue should have filed three appeals, but has filed only one appeal which is not maintainable and the appeal can be dismissed on this ground alone. Be that as it may, the ground taken in the appeal is that notwithstanding the settlement of all the dues by the issue of Form-3 under the KVS Scheme, imposition of penalties should have been sustained by the Commissioner (Appeals).

2. Heard Shri S.Kannan, learned DR for the Revenue, and Shri Appala Raju, Sr.Commercial Officer for the respondents.

**3.** On consideration of the submissions, we agree with the reasoning given by the Commissioner (Appeals) that once the matter has been settled under the KVS Scheme, the question of sustaining the penalty on the officers does not arise in the light of the Tribunal decision cited supra. For imposition of penalty, involvement of officers with intention to evade payment of duty is required to be brought on record, which has not been done so in the order in original. Therefore, in similar circumstance the Tribunal judgment held that penalty in such circumstances cannot be imposed on the officers of the Company under Rule 209A of the CE Rules, 1944. The ruling of the Tribunal clearly settles the issue and there is no reason to take a different view. In this view of the matter, the appeal is rejected. The stay application also stands disposed of accordingly.