

C. C. E. vs Chowgule Matrix Hobs Limited

Court: Customs, Excise and Gold Tribunal - Tamil Nadu

Date of Decision: Dec. 12, 2000

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

Final Decision: Appeal dismissed

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 assessees 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.