IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Order: 11.10.2017

Appeal No. E/57045-57046/2013-SM

(Arising out of Order-in-Appeal No. 25-26/CE/DLH/2013 dated 28.2.2013 passed by the Commissioner (Appeals), Central Excise, New Delhi)

M/s Shri Girraj Jee Office Systems Appellant
Rajesh Kumar, Director

Vs.

CCE, New Delhi Respondent

Appearance

Ms. Sukriti Das, Advocate - for the appellant

Shri K. Poddar, D.R. - for the respondent

CORAM: **Hon'ble Mr. S.K. Mohanty, Member (Judicial)**

Final Order No. 58018-58019/2017

Per S.K. Mohanty:

These appeals are directed against the impugned order dated 28.2.2013 passed by the Commissioner (Appeals), Central Excise, New Delhi. In this case, the adjudicating authority has confiscated the finished goods valued at Rs.1,56,600/- and raw material valued at Rs. 5,24,730/-. The appellant was provided with the option to redeem the goods on payment of redemption fine of Rs.1.25 lakhs. Besides penalty of Rs.50,000/- under Rule 25 of Central Excise Rules was also imposed on the appellant M/s Girraj Jee Office Systems and Rs.50,000/- on Shri Rajesh Kumar, Director of M/s Alka Furnishers (P) Ltd. under Rule 26 ibid. On appeal, the Commissioner (Appeals) vide the impugned order has modified the adjudication order to the extent of reducing the redemption fine to Rs.50,000/- and allowed the appeal in respect of seizure and confiscation of the raw material.

2. Ld. Advocate appearing for the appellant submits that seizure was effected by the department under Rule 24 ibid and the said provisions are not applicable to the facts of the appellant's case inasmuch as the goods were not removed outside the factory and the same were available within the factory. Thus, he submits that since seizure itself is not permissible under the Central Excise statute, confiscation of goods under Rule 25 is not proper and justified. The ld. Advocate further submits that personal penalty under Rule 26 ibid on Shri Rajesh Kumar is not imposable inasmuch as he is no way concerned with the appellant company M/s Girraj Jee Office Systems.

3. On the other hand, ld. DR appearing for the Revenue submits that for non-accountal of the finished goods in the statutory records, the same were confiscated under Rule 25 and since the said statutory provisions mandate imposition of redemption fine and the penalties, confirmation of such liability by the Commissioner (Appeals) is proper and justified. Ld. DR submits that Rule 24 is no way connected to Rule 25 inasmuch as Rule 24 deals with seizure of goods, whereas Rule 25 provides for confiscation of goods on

different situations. In the present case, since the goods were confiscated for non-accountal of the particulars in the statutory records, condition (b) of Rule 25 is violated and accordingly, confiscation of goods and imposition of redemption fine and penalty are proper and justified.

4. Heard both sides and perused the record.

5. I find that for non-accountal of goods in the statutory records, the same were confiscated by the department under Rule 25 ibid. since confiscation of un-accounted for finished goods in the factory is in-conformity with Rule 25 ibid, imposition of redemption fine and penalties on the appellant M/s Girraj Jee Office Systems, in my considered opinion, is proper and justified. Thus, the impugned order confirming such liability cannot be interfered with at this juncture. Accordingly, the impugned order is upheld and the appeal filed by Shri Girraj Jee Office Systmes is rejected.

6. However, I find that penalty imposed on the appellant Shri Rajesh Kumar under Rule 26 ibid is not sustainable inasmuch as he is no way concerned or connected with the activities of Shri Girraj Jee Office Systems inasmuch he is the Director of Alka Furnishers (P) Ltd., which is a different company. Therefore, the penalty imposed

on Shri Rajesh Kumar is set aside and the appeal filed by him is allowed.

7. The appeals are disposed of in above terms.

(Dictated & pronounced in open Court)

(S.K. Mohanty)
Member (Judicial)

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