CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD

REGIONAL BENCH - COURT - I

Central Excise Appeal No. 968 of 2011

(arising out of order-in-original No 9/2010(CE) Commr dated 13.12.2010 passed by Commissioner of Customs, Central Excise & Service Tax Hyderabad)

B.N. Sajjan
Patil Steel Wires, The grand,
3rd & 4th Floor, 6-3-1090/B/4,
Rajbhavan Road,
Somajiguda,
Hyderabad

Appellant

Versus

The Commissioner of Central Excise, Customs & Service Tax,
Hyderabad-I
L.B. Stadium road,
Basheerbagh, Hyderabad

Respondent

WITH

Central Excise Appeal No. 969 of 2011

(arising out of order-in-original No 9/2010(CE) Commr dated 13.12.2010 passed by Commissioner of Customs, Central Excise & Service Tax Hyderabad)

L.S. Patil
Patil Steel Wires, The grand,
3rd & 4th Floor, 6-3-1090/B/4,
Rajbhavan Road,
Somajiguda,
Hyderabad

Appellant

Versus

The Commissioner of Central Excise, Customs
& Service Tax,
Hyderabad-I
L.B. Stadium road,
Basheerbagh, Hyderabad

Respondent

Appearance:

None for the Appellant

Mr C. Mallikarjuna Reddy, A.R. for the Respondent.

CORAM

HON'BLE Mr Ashok Jindal, Member(Judicial)
HON'BLE Mr. P. Venkata Subba Rao, Member (Technical)

FINAL ORDER No. 30697-30698/ 2020

Date of Hearing: 12/02/2020

Date of Decision: 12/02/2020

[ORDER PER: ASHOK JINDAL]

As both the appeals are arising out of common issue, therefore both of them are disposed by a common order.

2. The facts of the case are that initially, on 01.05.1999, a show-cause notice was issued to the appellants along with main parties proposing penalty to be imposed on the appellant under Rule 209A of the erstwhile Central Excise Rules 1944. The adjudication took place and vide order dated 31.03.2000, the adjudicating authority imposed penalty of Rs 10,000/- each on both the appellants and confirmed the demand against the main appellant. The said order was challenged by all the parties before this Tribunal and this Tribunal vide order dated 29th January 2004 remanded back to the adjudicating authority for reconsideration of the issue. In remand proceedings, the adjudicating authority vide order dated 29th October 2004 dropped the proceedings against all the parties to the show-cause notice dated 01.05.1999. The Revenue filed appeal against the main party only before this Tribunal and this Tribunal vide order dated 19.12.2008 partly allowed the appeal

against the main party i.e. M/s Mayura Alloys Industries Ltd. As no appeal was filed against the dropping of penalty on the appellants the question of passing of order by the Tribunal does not arise. This Tribunal also remanded the matter to reconsider the issue in regard to demand of duty on MS wire, GI wire and barbed wire against M/s. Mayura Alloys Industries Ltd. In remand proceedings, the adjudicating authority confirmed the demand against the main party as well as imposed penalty on the appellants. Against the said order of imposition of penalty on the appellant, appellants are before us.

3. None appeared on behalf of the appellants but written submissions have been filed requesting that as the penalties were dropped against them by the order dated 29.10.2004 passed by the adjudicating authority dropping penalty against the appellant was never challenged, therefore, the same has attained finality. Hence, in remand proceedings against the main party, penalties on the appellants cannot be imposed.

4. Heard learned A.R. and perused the records.

5. We find that it is a fact on record that the adjudicating authority vide his order dated 29.10.2004 dropped the penalty proposed in the show-cause notice against the appellants. The order of dropping penalty was never challenged in any subsequent proceedings.. Therefore, in remand proceedings for third party, penalty cannot be imposed on the appellant.

6. In view of this, we do not find any merit in the order of imposing penalties on the appellant. Accordingly, impugned order is set aside.

7. In the result appeals are allowed with consequential relief if any.

(Operative portion of order pronounced in open court on conclusion of the hearing)

(Ashok Jindal)
Member (Judicial)

(P. Venkata Subba Rao)
Member (Technical)

Neela reddy