

**Personal penalty cannot be imposed on the Chairman of the Company for failure in ensuring proper accounting of the goods**

The CESTAT, Ahmedabad in *Mr. Anil Dudalal Kaneria v. C.C.E.-Bharuch [Excise Appeal No.10079 of 2019]* has held that a huge personal penalty cannot be imposed on the Chairman of the Company who is not looking after the accounts of the goods manufactured. Further, reduced the penalty of INR from 5 Lacs to INR 1 Lacs for failure in ensuring proper accounting of the finished goods.

**Facts:**

Mr. Anil Dudalal Kaneria (“**the Appellant**”) is the Chairman of M/S Kaneria Granito Ltd. (“**the Appellant’s Company**”).

The Revenue Department (“**the Respondent**”) issued a Show Cause Notice (“**SCN**”) to the Appellant for alleged failure in proper accounting for the manufactured goods . Further, it has been alleged that there was no reply from the Appellant w.r.t. to the SCN and accordingly, the Respondent imposed a redemption fine and penalty of INR 5 Lacs on the Appellant as per Rule 26 of Central Excise Rules, 2002 ( “**the Central Excise Rules**”)

The Appellant has filed this appeal against the confirmation of imposition of a penalty of INR 5 lakhs by the Respondent.

The Respondent contended that the goods found in excess in premises of the Appellant’s Company were kept for clandestine removal which was without payment of duty. Hence, the goods were confiscated by the Respondent.

**Issue:**

Whether the Respondent can impose a penalty on the Appellant for failure to ensure proper accounting of finished goods?

**Held:**

The CESTAT, Ahmedabad in ***Excise Appeal No.10079 of 2019***, held as under:

- Observed that, the allegation made by the Respondent that the goods found in excess in premises of the Appellant's Company were kept for clandestine removal which was without payment of duty and is not supported by any evidence.
- Stated that, the Respondent cannot impose a huge personal penalty on the Appellant who is not looking after the accounts of the goods manufactured.
- Held that, the only lapse on the part of the Appellant is that the proper accounting of the finished goods was being done or not were not ensured, for which a token penalty can be imposed.
- Modified the order passed by the Respondent and reduced the penalty amount from INR 5 Lacs to INR 1 Lacs.

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