

Commissioner of Central Excise Vs. Tata Oil Mills Co. Ltd.

Commissioner of Central Excise Vs. Tata Oil Mills Co. Ltd.

SooperKanoon Citation : sooperkanoon.com/10607

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jan-09-1997

Reported in : (1999)(113)ELT311Tri(Mum.)bai

Appellant : Commissioner of Central Excise

Respondent : Tata Oil Mills Co. Ltd.

Judgement :

1. In the order impugned in the appeal, Commissioner (Appeals) has held that prior to amendment on 15-4-1987, the provisions of Rule 57E permitted credit on the duty paid on the input to be varied by reason of the fact that no duty was subsequently paid. On this basis he has requested the Assistant Collector to issue a certificate under Trade Notice 17/89.

2. The Departmental Representative contends that reliance by the Commissioner on the decision of this Tribunal is misplaced, because there are other decisions to say that Rule 57E, as it stood before its amendment, did not permit credit to be taken on differential duty paid subsequent to clearance of the goods. *Tata Locomotive v. C.C.E.*, Mumbai 1996 (87) E.L.T. 157 has held that Rule 57E is procedural in nature; the amendment introduced in this rule intended to further clarify the position and to indicate the procedure to be followed; the amended provision would apply to all situations of adjustment, recovery for refund which would not be collected before 15-4-1987. In the present case credit was taken only after 15-4-1987 and credit would not have been taken prior to this date. Therefore credit could not be denied on the duty paid. Hence the manufacturer was entitled

to the certificate that he had asked for.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com