

Commissioner of Central Excise Vs. P.M.P. Auto Inds. Ltd.

Commissioner of Central Excise Vs. P.M.P. Auto Inds. Ltd.

SooperKanoon Citation : sooperkanoon.com/12233

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Nov-28-1997

Reported in : (1998)(100)ELT372Tri(Mum.)bai

Appellant : Commissioner of Central Excise

Respondent : P.M.P. Auto Inds. Ltd.

Judgement :

1. This reference application have been filed by the Commissioner of Central Excise and Customs, Pune and the following point said to be a question of law arising out of the impugned order of the Tribunal has been raised in the application :- Whether the Tribunal is competent to decide the authenticity of the statement furnished by the assessee to the Bank or any other authority and to the Excise authority for the purpose of levy of Excise duty? 2. Shri D. Gurnani, the Id. JDR submitted that the Tribunal omitted to consider the fact that in this case raw material consumption figures did not tally with the finished product figures. The Tribunal ought to have noted the fact that the assessee has accepted the fact that no goods cleared on payment of duty should be lying in stock and the same cannot be accountal for such stock. None is present for the Respondents despite Notice.
3. We have carefully considered the submissions, we find that the Tribunal has not pronounced upon the authenticity of the statement furnished by the Respondents to the Bank or any other authority.

Persual of the Tribunal orders would show that the Tribunal finding is that the declaration given to the Bank by itself cannot be a ground or demanding duty without other supporting evidence regarding clandestine manufacture and removal of the goods. The Tribunal found that there is no such evidence. We also bear in mind settled law that mere mis-appreciation of evidence will not by itself be a ground for reference application. In this view of the matter there is no substance in the application which is accordingly rejected.

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