

Cc Vs. Universal Cables

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-05-1998

Reported in : (1998)(76)LC27Tri(Mum.)bai

Judge : R T Lajja, S Kang

Appellant : Cc

Respondent : Universal Cables

Judgement :

1. In this appeal filed by the Revenue, the matter relates to the interpretation of law relating to unjust enrichment in a case where the goods imported were not to be sold at all and were consumed captively.

The Respondents M/s. Universal Cables Ltd. imported 'Accessories to the Impulse Generator', paid duty as demanded and subsequently claimed the refund of Rs. 24082.13. The Asstt. Collector, Customs, Bombay was satisfied that the amount was refundable. He however, ordered that the said amount should be credited to the Consumer Welfare Fund. On appeal, the Collector, Customs (Appeals) relying upon a number of decision as cited in para 4 of his order came to the conclusion that the principles of undue enrichment shall not apply to the facts of the case.

2. The Revenue in their appeal had contended that the Revenue had filed an appeal against the order of the Bombay High Court in the case of Solar Pesticides Pvt. Ltd. v. UOI .

3. We have heard Shri R.S. Sangia, JDR for the Revenue and Shri Rahul Ray, Advocate for the respondents.

4. It is not disputed that the goods imported were used captively and no sale there of was effected. There is no stay by the Apex Court on the Bombay High Court decision which had been followed by the Appellate Authority in this case. Further we find that in para 98 of their decision in the case of Mafatlal Industries Ltd. v. UOI , the Supreme Court had clarified that their decision in that case did not deal with the situation relating to the captive consumption. Thus, the Hon'ble Supreme Court had left that question open.

5. In the facts and circumstances of the case, we find no ground to interfere with the view taken by the Collector, Customs (Appeals) and there is no merit in this appeal filed by the Revenue and the same is rejected.

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