Kopran Ltd. Vs. Commissioner of Central Excise

Kopran Ltd. Vs. Commissioner of Central Excise

SooperKanoon Citation : sooperkanoon.com/14088

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-10-1998

Reported in : (1999)(112)ELT962Tri(Mum.)bai

Appellant : Kopran Ltd.

Respondent : Commissioner of Central Excise

Judgement :
2. Notice was issued to the appellant alleging wrong taking of Modvat credit on 21 invoices. The reasons specified were that the supplier is a wholesale supplier and invoices were not in conformity with Notification 16/94, dated 30-3-1994 and Trade Notice No. 30/94. The Additional Commissioner allowed credit taken on three of the invoices.

He disallowed credit on the remaining six on the ground that the invoices related to imported goods which had not been sent in original packing. On appeal from this order Commissioner (Appeals) confirmed this order. Hence this appeal.

3. The invoices in all cases were issued prior to 4-7-1994, it is the date from which by incorporation of Rule 57GG in the statute book, registration of a dealer was made mandatory. Denial on this ground cannot be upheld.4. The departmental representative's contention that the invoices were not complete in other respects, that the notification and the trade notices is not one which is found in the notice, or either of the two orders, except with regard to the six documents. In the absence of any statutory requirement denial of credit on this cannot be upheld.5. By

Notification 15/94 the Central Excise prescribed inter alia the invoices issued by the importer containing the required particulars for the purpose of Rule 57G. It is difficult to hold that the notice contemplated denial of notice on this ground. The reason contained on it alleged specifically even on the assumption that it did, there is no basis for such an allegation. The six invoices in question are seen to be issued by certificate indicating that they were issued by the persons who imported the goods. They were therefore covered by the invoices referred to above. There was no requirement that the bill of entry would not apply in these cases.