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Collector of Central Excise Vs. Midi Tools (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-24-2000

Reported in : (2000)(69)ECC727

Appellant : Collector of Central Excise

Respondent : Midi Tools (P) Ltd.

Judgement :

1. The short point to be considered by the Larger Bench in this case is whether limitation commences from the date of payment of duty or limitation starts from the end of the financial year for the purpose of claiming refund.

2. When this matter was called, Shri R.D. Negi, learned SDR accompanied with Shri S. Srivastava, learned JDR submitted that the issue referred to the Larger Bench is no longer res integra in view of the fact that the very issue has already been considered by the Larger Bench as per Order No. E/989-990/97-B, dated 4-7-1997 reported in 1997 (96) E.L.T.257 (T). They drew our attention to the finding portion of the said order as appearing in para 12 of the decision. It is as under :- "12. In the light of the above discussion, we hold that the time limit for refund claims filed on the basis of the Notifications granting exemption based upon the value of clearances during a particular financial year will commence from the date of payment of duty and that such refund claims are covered by Explanation (f) to Section 11B of the CESA,1944".

3. Since the issue involved herein has already been considered and concluded by the Tribunal in the aforesaid case, following the ratio, we hold that limitation starts from the date of payment of duty and not from the end of the financial year. Accordingly, this reference is answered.

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