Commissioner of Central Excise Vs. Prockage Soapery Ltd.

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SooperKanoon Citation : sooperkanoon.com/17566

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jan-28-2000

Reported in : (2000)(69)ECC149

Judge : J T J.H.

Appellant : Commissioner of Central Excise

Respondent : Prockage Soapery Ltd.

Judgement :
1. This application seeks to refer to the jurisdictional High Court the following question of law: Whether in the context of the provisions of Rule 57B read with Central Excise exemption Notn. No.175/86 (para 4 thereof), the Tribunal is justified in holding that higher notional credit, though otherwise eligible at the time of entry of imputs but not taken, could be taken at a subsequent stage within a period of 6 months applying the time limit prescribed under Section 11B.2. The question is wrongly worded. The question is therefore, reframed in the following manner: Whether, in the absence of a period of limitation in Rule 57B, the period of 6 months could be taken as reasonable time limit, following the time limit prescribed, 3. The Tribunal in the order held that the assessee had taken incremental credit at a later stage but within six months of the receipt of the input. The Tribunal in holding that in the absence of any limitation prescribed, the limitation of six months should be read in the rule had followed, the Tribunal judgment in the case of Mysore Lac & Paint Works . This judgment was referred to with approval by the Gujarat High Court in the case of M/s. Wipro Ltd. . In dealing with Rule 571 before

the time limit was incorporated in it, the Tribunal held that six months would be a reasonable period of limitation following the ratio of the judgment in the case of Brakes India Ltd. v. CCE . In doing so, the Tribunal had referred to the Supreme Court judgment in the case of GOI v. Citadel Fine Pharmaceuticals. In this judgment the Supreme Court had approved the period of limitation as six months in the absence of any express provision.

4. The law having been so laid down by the High Courts and also by the Supreme Court, I find no merit in the application. It is, therefore, dismissed.