Commissioner of Central Excise Vs. Jai Corp. Ltd.

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SooperKanoon Citation : sooperkanoon.com/18772

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jul-28-2000

Reported in : (2001)(130)ELT478Tri(Mum.)bai

Appellant : Commissioner of Central Excise

Respondent : Jai Corp. Ltd.

Judgement :

1. This is an application filed by the Commissioner under Section 35G (1) of the Central Excise Act for making a reference referring the following question regarding whether the Modvat credit on lubricating oil is admissible or not as mentioned in Column 8 of EA6 form.

2. By the impugned order dated 1-9-1999, the Tribunal has held that the input was eligible to Modvat credit in terms of certain earlier decisions of the Tribunal one of which is reported in 99 E.L.T 553. By an amendment of Finance Act (Act 27 of 1999) Section 35H has been enshrined in Central Excise Act whereby the Commissioner of other party to file Reference Application directly to jurisdictional High Court.

The order has been passed subsequent to 1-7-1999. Hence, the Tribunal does not have jurisdiction. The Reference Application is dismissed.