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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-30-2001

Appellant : C.C.E., Chandigarh

Respondent : M/S. Smithkline Beechem Consumer

Judgement :

1. When the case was called, none appeared on behalf of the respondents, in spite of notice. Therefore, the appeal being taken up in the absence of the respondents.

3. In this case, the issue is in respect of admissibility of MODVAT Credit on HSD Oil. The Commissioner (Appeals), in the impugned order, vacated the order-in-original on the ground that the respondents had debited the entire amount in dispute.

4. The contention of the revenue is that vide impugned order, the appeal filed by the respondents, was allowed. The respondents are not entitled for the benefit of MODVAT Credit in respect of HSD Oil.

Therefore, the appeal cannot be allowed by the Commissioner (Appeals).

Clause (1) of Section 112 of the Finance Act, 2000 provides that no credit of any duty paid on high speed diesel oil at any time during the period commencing on and from the 16th day of March, 1995 and ending with the day, the Finance Act, 2000 received the assent of the President, shall be deemed to be admissible.

5. In view of these provisions of Finance Act, the respondents are not entitled for the benefit of credit on HSD Oil. The order passed by the Commissioner (Appeals) is set aside and the appeal filed by the revenue is allowed.

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