

Cc and Ce, Bbsr-i Vs. M/S. Mangalam Timber Products

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SooperKanoon Citation : sooperkanoon.com/23490

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Calcutta

Decided On : May-30-2001

Appellant : Cc and Ce, Bbsr-i

Respondent : M/S. Mangalam Timber Products

Judgement :

1. After rejecting the stay petition of the Revenue, I take up the appeal itself with the consent of both the sides duly represented by Shri V.K. Chaturvedi, Id.SDR and Shri R.S. Bajaj, Id.Chartered Accountant.

2. The short issue involved in the present appeal is as regards the availability of modvat credit in respect of Fork Lift Truck under the provision of rule 57Q. The Commissioner (Appeals) after following the Tribunal's various orders has held that Fork Lift Truck is an admissible item for the purposes of modvat credit. The Revenue in their memo of appeal have not disputed the above factual position as regards the precedent decisions of the Tribunal. But has submitted that reference applications have been filed before the Hon'ble High Court against the earlier decisions. It is well settled principle of law that mere filing of Reference Application does not operate as stay of operation of the Tribunal's order. Inasmuch as the earlier orders of the Tribunal on the same point are holding the field, by following the ratio of the same no merits are found in the Revenue's appeal and the same is accordingly rejected.