

Commissioner of Central Excise, Vs. Okasa Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-01-2001

Reported in : (2002)(140)ELT458Tri(Mum.)bai

Appellant : Commissioner of Central Excise,

Respondent : Okasa Ltd.

Judgement :

1. The appeal is against the order of the Commissioner (Appeals) holding that the respondent was entitled to modvat credit on the invoice of which it received from the dealer. The Commissioner did not accept the finding of the Assistant Commissioner that the invoices were not acceptable for the reason that they did not contain details of vehicle number and time of removal of goods.
2. The Tribunal in its order in appeal E/549/96 & E/575/96 filed by the Commissioner against the same appellant, concluded that the failure to show the vehicle number would not by itself invalidate the invoices. It also noted the earlier decision of the Tribunal in Jenny Plywood Industries Ltd vs. CCE 1997 (96) ELT 606 that absence of the time of removal in the invoice is a remediable defect. The Departmental Representative says that invoice 009-dated 25.8.1994 does not show the duty paid by the manufacturer in the appropriate column.
3. The answer of the representative of the respondent is that the respondent issued one invoice for the entire quantity that it purchased from the dealer. The duty shown in the first column therefore represents the entire duty payable on the

goods and thus paid by the manufacturer. This contention is correct. The dealer's invoice is for 500 kilogram of amoxycillin which is the total of the quantities specified in Column 4(e) of four invoices for the goods issued by Gujarat Lyka Organics Ltd., the manufacturer. The total duty paid by the manufacturer is thus visible on the invoice, notwithstanding the failure to show it in column 4. We therefore see no reason to interfere.

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