Compack Pvt. Ltd. Vs. Commissioner of Central Excise,

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SooperKanoon Citation : sooperkanoon.com/25128

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-23-2001

Appellant : Compack Pvt. Ltd.

Respondent : Commissioner of Central Excise,

Judgement :
1. The Commissioner (Appeals) has dismissed the appeal before him for failure to deposit the entire duty of Rs. 3,91,228/- that was confirmed by the Assistant Commissioner (whose order was in appeal before him).

The Assistant Commissioner, in his order, found that there was short levy of duty by the manufacturer, the applicant before us. It was engaged in the manufacture of composite containers and was availing of the benefit of concessional duty contained in notification 68/88. This benefit was not available to it for the reason that the condition subject to which the exemption was available, that procedure under Rule 56A or 57A should not be availed, had been contravened.

2.The notification grants exemption, subject to the condition contained in the proviso that it shall not apply to a manufacturer who avails the procedure under Rule 56A or 57A "in respect of the duty paid on the base paper or base paper board." The Assistant Commissioner appears to have lost sight of the quoted portion of the notification. It is the contention of the counsel for the appellant that it did not take credit of the duty paid on base paper. It received plastic coated paper and credit of duty was availed on plastic coated paper. (SIC) the applicant has a very strong prima facie .

3. Accordingly, we take up the appeal itself and set aside the order of the Commissioner (Appeals), allowed it and remand the matter to him for disposal on merits in accordance with law without asking for any deposit.