

Uni Deritend Ltd. Vs. Commissioner of Central Excise,

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Sep-20-2001

Appellant : Uni Deritend Ltd.

Respondent : Commissioner of Central Excise,

Judgement :

1. The application is for waiver of deposit of duty of Rs. 50,523/-, and a penalty of Rs. 10,000/-.
2. The duty has been demanded, and penalty imposed, on the finding of the authorities that the applicant was not entitled to take modvat credit of duty paid on switches and other electrical items which were utilised by a electrical contractor carrying out work in its factory.
3. While the representative of the applicant emphasises the delay by the department in disposing of its application for credit under Sub rule (3) of Rule 57T, that is not the ground on which credit has been denied. It has been denied on the ground that the provisions of rule and the trade notice issued in this regard has not been complied with.

The contention that the trade notice is not valid in law because it is issued by the Additional Commissioner, whereas Sub rule (3) of Rule 57T specifies the Commissioner to lay down the condition requires examination. Prima facie , however, I am not prepared to accept that the trade notice in question is not valid, because it is signed by Additional Commissioner, particularly when it says at the

beginning that the Commissioner has prescribed the procedures and conditions contained in it. Having regard to these aspects, I direct deposit by the applicant of Rs. 25,000/- within a month from the receipt of this order, whereupon, I waive deposit of the remaining duty and penalty and stay their recovery.

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