Commissioner of Central Excise, Vs. Deluxe Laxmi Paper Plast Ltd.

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SooperKanoon Citation : sooperkanoon.com/26427

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-30-2001

Appellant : Commissioner of Central Excise,

Respondent : Deluxe Laxmi Paper Plast Ltd.

Judgement :

1. In this case the department by filing the present appeal, objects to the extension of modvat credit of Rs.23,545/- on the basis of invoice No.55 dt. 19.12.94 issued by a dealer who did not own a godown at his registered premises in view of the fact as per Trade Notice No. 72/94 dt. 8.12.94, dealer who has been registered should have proper business premises.

2. On hearing both sides and noting that this is a requirement not of the rules, but of a trade notice, and further noting that invoice in question has been issued only 10 days after the issue of the Trade Notice, thus not giving sufficient time to dealers to acquire a godown, and further noting that technical breach of trade notice cannot a granted for denied of modvat credit I hold that the Commissioner (Appeals) rightly extended credit amount of the question, I uphold the impugned and reject the appeal.