

Michael and Michael Vs. Commissioner of Central Excise,

Michael and Michael Vs. Commissioner of Central Excise,

SooperKanoon Citation : sooperkanoon.com/26437

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-30-2001

Appellant : Michael and Michael

Respondent : Commissioner of Central Excise,

Judgement :

This appeal was posted for admission. Appellants have requested for cancellation of the hearing on the ground that the appeal was disposed of by Commissioner (Appeal) 2. It is clear that the appellants are under a wrong impression. The facts being clear this appeal is taken up for disposal.

3. The Appellants took Modvat credit on the strength of extra copy of the invoices. At the material time duplicate copy of transporter was the modvatable document. The Assistant Collector ordered reversal.

Before the Commissioner (Appeals), It was claimed that the duplicate copy was misplaced. The original copy was available which could be taken on record. The Commissioner (Appeal) upheld the denial and hence the appeal.

4. The appellant claimed that they have produced sufficient alternative evidence that the credit was available. It was claimed that the suppliers had given a certificate that the invoice was issued only to the present Appellants. Appellants have also filed an indemnity bond.

5. In these circumstances I hold that the alternate evidence is sufficient to establish the claim of loss of modvatable copy. I therefore allow the appeal and remand the proceedings back to the jurisdictional Assistant/Deputy Commissioner who will examine the documents relied upon and proceed to allow the credit.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com