Commissioner of Central Excise Vs. Caprihans India Ltd.

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SooperKanoon Citation : sooperkanoon.com/27997

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Apr-10-2002

Reported in : (2002)(146)ELT71Tri(Mum.)bai

Judge : G Srinivasan

Appellant : Commissioner of Central Excise

Respondent : Caprihans India Ltd.

Judgement :
1. In the impugned order, the appeal was dismissed by the Collector of Central Excise (Appeals) holding as follows :- "Their plea that the demand is hit by limitation is one which has to be accepted in view of the fact that there is no suppression, fraud, mis-statement etc. in the show cause notice. In the absence of any such allegation it would be improper to invoke the longer period of five years. The demand is for the period January, 1980, and the show cause notice has been issued on 10-1-1985." 2. The learned DR arguing for the appellant would stress the word "misuse" used in the show cause notice. When confronted with a query from the Bench, he accepted that the word "misuse" is not found in any of the provisions of the Central Excise Act or the Rules enabling the department to issue notice beyond the period of six months. Hence the appeal of the department is devoid of merits and is dismissed.