Commissioner of Central Excise Vs. Rollatainers Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-06-2002

Reported in : (2002)(144)ELT649TriDel

Judge : S Kang

Appellant : Commissioner of Central Excise

Respondent : Rollatainers Ltd.

Judgement :

1. When the case was called none appeared on behalf of the respondents in spite of notice.

3. The brief facts of the case are that the respondents filed rebate claim in respect of the goods exported by them. The goods were shipped for export on 3-10-97 and rebate claim was filed on 3-4-98. The Commissioner (Appeals) in the impugned order held that rebate claim is within the period limitation, that is, of six months.

4. The contention of the Revenue is that when the goods were shipped for export on 3-10-97, six months will expire on 2-4-98, therefore, the rebate "claim filed on 3-4-98 is one day late after expirty of six months.

5. The issue in respect of calculation of the time period is already settled by the Tribunal in the case of Collector of Central Excise v.S.A.I.L., Rourkela Steel Plant, reported in [1992 (61) E.L.T. 732 (Tribunal)]. The Tribunal held that in view of the clear decision regarding the effect of word "From" which has also been used in

Section 11B of Central Excises & Salt Act, 1944 the proper procedure would be to exclude the relevant date therein and start the period of limitation of six months from the following day. The fact that the relevant date is defined in the Central Excise Act does not affect a general principle as to how to compute the period of limitation. In view of the above decision of the Tribunal, I find no infirmity in the impugned order. The ap peal is rejected.