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Ampol (i) Pvt. Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Tamil Nadu

Decided On : Aug-28-2002

Reported in : (2003)(106)LC322Tri(Chennai)

Judge : S Peeran, R K Jeet

Appellant : Ampol (i) Pvt. Ltd.

Respondent : Cce

Judgement :

1. This matter has been listed today for passing final order under Section 35K of the Central Excise Act 1944. The Tribunal had referred to the Hon'ble High Court of Madras the following two question.

i) When all inputs were declared and all final products involved were approved in the classification list and when the same inputs were found used in all the final products and declared and underdeclared were cleared on payment of duty, and when all the final products attracted the same sub-heading 4006.10 and when all the inputs received and utilised were found duly accounted for without any irregularity and when the underdeclared final goods also attracted the benefits of Modvat scheme, whether the denial of Modvat benefit to them will not defeat the objective of the Modvat scheme of avoiding casacading effect on prices and whether the order of the Collector (Appeals) in allowing the credit is not justified.

ii) Whether there is justification for denying the substantial legal rights of an assessee to the benefit of the MODVAT scheme on account of procedural errors and lapses not leading to any loss of revenue.

The Hon'ble High Court of Madras by their Order dt. 23.7.2001 in Revision Case No. 4 of 2000 has answered the question in favour of the assessee and against the Revenue.

2. In fact, the appeal filed by the assessee before the Tribunal in E/586/91 is required to be allowed which we order accordingly in terms of Section 35K of the Central Excise Act 1944.

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