Silwester Textiles P. Ltd. Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-25-2003

Judge : K Kumar, S T C.

Appellant : Silwester Textiles P. Ltd.

Respondent : Commissioner of Central Excise

Judgement :
1. None appeared for the respondents. We have heard Shri S.S. Bhagat, learned S.D.R.2. The appellants initially paid half a month's duty for the period 16/12/1998 to 31/12/1998. Subsequently, they paid an amount of Rs. 35,484/- which was the duty for one extra day alongwith interest of Rs. 2,170/- after a delay of 62 days on 08/03/1999. On appeal, the Commissioner (Appeals) decided that payment of half a month's duty for the period in question was in order and the appellants were not required to pay an extra day's duty.

3. Consequently, the refund claim was sanctioned by the Dy.

Commissioner of the extra day's duty and interest amount of Rs. 37,655/-. On department's appeal, the Commissioner (Appeals) has dis-allowed the refund on the ground of unjust enrichment, since the appellants have not been able to establish that the said amount was not passed on to the customers.

4. In view of the fact that the extra duty with interest was paid later on at the instance of the department, it is clear that the appellants could not have passed on

the duty benefit to their customers at the time of the clearance of the goods. As such, we set aside the impugned order and restore the order in original passed by the Dy. Commissioner with consequential benefit to the appellants.