

**C.C.E. Vs. Tata Holset Ltd.**

**C.C.E. Vs. Tata Holset Ltd.**

**SooperKanoon Citation :** [sooperkanoon.com/31919](http://sooperkanoon.com/31919)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Aug-22-2003

**Judge :** S Kang, a T V.K.

**Appellant :** C.C.E.

**Respondent :** Tata Holset Ltd.

**Judgement :**

1. Revenue filed this appeal against the order in appeal passed by the Commissioner (Appeals). The Commissioner (Appeals) disallowed the benefit of MODVAT credit and set aside the penalty.

3. The contention of the Revenue is that the appellants wrongly availed the benefit of MODVAT credit, therefore, and liable for penal action under Section 11AC of the Central Excise Act.

4. The contention of the respondents is that they availed the full credit in respect of capital goods whereas they are entitled to take the credit only to the extent of 50% of the duty paid and on realizing the mistake the respondents on their own reversed the credit, hence they are not liable for any penalty.

6. The Respondents relied upon the decision of the Tribunal in the case of Amritsar Crown Caps (P) Ltd. v. C.C.E., Chandigarh, reported in 2001 (46) RLT 169 (CEGAT-Del.) and BPL Sanyo Utilities & Appliances Ltd. v.C.C., Bangalore, 7. In the present case the appellants reversed the credit in respect of the capital

goods on realizing their mistake that they have taken excess credit. Thereafter, show cause notice was issued. In these circumstances, it cannot be said that appellants had an intention to evade the payment of duty to attract the provisions of Section 11AC of the Act. Therefore, we find no infirmity in the impugned order. The appeal is dismissed.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**