

Kitply Industries Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-06-2004

Judge : N T C.N.B., P Chacko

Appellant : Kitply Industries

Respondent : Cce

Judgement :

1. This ROM application is directed against the rejection of revenue's submission that the Commissioner (Appeals) was in error in upholding the appellant's claim for deduction towards interest on receivable. The present application points out that five invoice Nos. 945, 948, 949, 951 & 95. all dated 31.03.98 indicated that credit period was only seven days and beyond that period interest at 21% shall be paid. Based on those invoices, it is being contended that credit period was only seven days. As against this the learned Counsel appearing for the respondent points out that the appellant was selling their goods from 26 depots. It was the case all along that the appellant was not realising interest even in cases where the delay in making the payment was 72 days. This position has also been accepted by the lower authorities. It is submitted that the law on the subject remains well settled, as noted in the order of Commissioner (Appeals) that deduction towards delay in payment is permissible. He also points out that the Commissioner has relied on the decision of the Apex Court in the case of MRF Limited Vs UOI, 2002-TAXINDIAONLINE-49-SC-CX, while deciding these questions.

2. We have perused the records and have considered the submissions made by both sides. the present petition is not well founded. When a manufacturer makes large number of sales, against certain purchases, some parties would make payment on time. This can not be reason to hold that there is no credit involved or that deduction for delayed receipt is not permissible. Further, this concerns merits of the case and not apparent mistake. The rectification of mistake application fails and is rejected.

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