

Cce Vs. Krishna Inds.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Apr-28-2004

Reported in : (2004)(115)LC255Tri(Mum.)bai

Judge : A Wadhwa

Appellant : Cce

Respondent : Krishna Inds.

Judgement :

1. After hearing Shri Bidhan Chandra, learned JDR, I find that the Assistant Commissioner, Central Excise, Ahmedabad dropped the demand against the respondents by following the earlier decision of the Tribunal in the case of CCE, Coimbatore v. Venkateshwar Steel Inds.

reported in 1996 (40) RLT 796 (CEGAT-SRB) : 1997 (73) ECR 574 (T). The Revenue filed on appeal their before the Commissioner (Appeals) who took into consideration the Tribunal's decision in the case of CCE, Ahmedabad v. Gujarat Bottling Co. Ltd. and also Revenue's contention that reference application has been made to the Hon'ble High Court.

However, he observed that there is no stay of the earlier orders of the Tribunal and hence rejected the Revenue's appeal.

2. Being aggrieved with the above order, revenue has filed the present appeal on the same ground. Since there is no stay of the Tribunal's Judgment which are in

favour of the respondents holding that the assessee would be entitled to the deemed modvat credit even after crossing exemption limit of Rs. 75 lakhs provided in Notification No.1/93, I do not find any reason to interfere with the order of the Commissioner (Appeals). As such, revenue's appeal is rejected.

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