Oswal Yarns Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-09-2004

Judge : A Wadhwa

Appellant : Oswal Yarns Ltd.

Respondent : Cce

Judgement :

1. The appellants have made a prayer for decision on merits.

Accordingly, I have heard the learned JDR and have gone through the impugned order.

2. The appellants refund claim of Rs. 11,622/- has been rejected on the ground of unjust enrichment by observing that subsequent giving of credit notes to their buyers would not amount to the situation as the duty incidence has not been passed on to their Customers. The Tribunal in the case of CCE Jaipur II v. Adarsh Guar Gum Udyog - 2000 (120) ELT 139 (T) has held that once that duty was collected from the customers at the time of clearance of the goods, issues, issue of credit notes at the subsequent stages would not alter the position. To the same effect is the decision of the Larger Bench of the Tribunal in the case of Grasim Industries (Chemical Division) v. CCE Bhopal 2000 (153) ELT 694 (Tri-LB).

3. Inasmuch as the issue stands decided against the appellants in the above referred decision, I find no justification to interfere with the view taken by the lower

authorities. The appeal is accordingly rejected.