Commissioner of Central Excise Vs. Milestone Organic Ltd.

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SooperKanoon Citation : sooperkanoon.com/37344

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-10-2004

Reported in : (2005)(182)ELT204Tri(Mum.)bai

Judge : J Balasundaram, Vice-

Appellant : Commissioner of Central Excise

Respondent : Milestone Organic Ltd.

Judgement :

1. The application for stay of operation of the order of the Commissioner (Appeals) by which he has set aside a demand of Rs. 3,43,944/- and Rs. 1,60,000/-, holding that the evidence on record for confirmation of duty of the above amounts is not sufficient to establish clandestine clearance, is rejected as the Commissioner (Appeals)'s order gives sufficient reasons for holding that the above demands are not sustainable and the correctness or otherwise of his order can be considered only when the appeal is finally heard and not at this stage.

2. The prayer for stay on the ground that unless stay is granted, the amount set aside will have to be returned to the assessees is not sufficient to justify grant of stay, in the absence of any averment that the Revenue would not be able to recover the amounts in the event of their success in the appeal before the Tribunal.