

Xerox Modi Corp. Ltd. Vs. Cce

Xerox Modi Corp. Ltd. Vs. Cce

SooperKanoon Citation : sooperkanoon.com/37402

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-16-2004

Reported in : (2005)(99)ECC563

Judge : M T K.C.

Appellant : Xerox Modi Corp. Ltd.

Respondent : Cce

Judgement :

1. The appellants had paid central excise duty of Rs. 5,07,326 under protest on pre-budget stock which was cleared from 1.3.88 to 31.7.88.

Subsequently, they filed a refund claim for this amount which was rejected and the amount was credited to the Consumer Welfare Fund on the ground that the appellant have failed to negate the presumption of the unjust enrichment as provided under Section 12B of the Central Excise Act. The appeal filed by them before the Commissioner (Appeals) was rejected under Section 11B of the Act as they failed to establish that incidence of duty has not been passed on by them to anybody.

2. Shri Ravi Raghavan, Ld. Consultant appearing for the appellants conceded that in view of the Supreme Court's judgments in the case of Commissioner of Central Excise, Mumbai-II v. Allied Photographics India Ltd. 3. In view of this position, the appeal is dismissed as there is no merit in the appeal.

