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Standard Electricals Limited Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-23-2004

Reported in : (2005)(99)ECC735

Judge : M T K.C.

Appellant : Standard Electricals Limited

Respondent : Cce

Judgement :

1. This appeal is directed against the Order of rejection of refund claim of Rs. 1,46,185 by attracting the clause of unjust enrichment.

2. Shri K.K. Anand, learned Advocate appearing for the appellants pleaded that the appellants have returned the element of excise duty by issuing credit notes and hence, it cannot be said that they have passed on excise duty to the purchasers.

3. Shri V. Valte, learned SDR, appearing for the Revenue pleaded that the appellants at the time of clearance of the goods had passed on duty element to the purchasers and subsequent issue of credit note does not alter the position that duty has been passed on to the purchasers. He relied on the decisions of the Larger Bench of the Tribunal in the case of Grasim Industries v. CCE, Bhopal, 2003 (153) ELT 694 and in the case of S. Kumar's Ltd. v. CCE, Indore, 2003 (88) ECC 516 (LB) : 2003 (153) ELT 217 where it was held that assessee's contention

that the provisions contained under Section 11B of the Central Excise Act, 1944 are not applicable in their case as they had already issued credit note to the buyer and as such they had borne the duty themselves, fails and rejected.

4. I find that the issue involved in this appeal is already settled by the aforesaid decisions and there is no merits in the appeal. I, therefore, reject the appeal.

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