SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Commissioner of Central Excise Vs. Shree Kurele Chemical Co.

Commissioner of Central Excise Vs. Shree Kurele Chemical Co.

SooperKanoon Citation : sooperkanoon.com/38821

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-21-2005

Reported in : (2005)(189)ELT319TriDel

Judge : P Bajaj

Appellant : Commissioner of Central Excise

Respondent : Shree Kurele Chemical Co.

Judgement :

1. In this appeal the revenue has contested the correctness of the impugned order vide which the Commissioner (Appeals) has allowed the refund of duty of Rs. 1,50,000/- to the respondents which they deposited with the Department at the time of taking Central Excise Licence for the manufacture of Pan Masala.

2. I have heard both the sides. There is no dispute regarding the deposit of above mentioned amount by the respondents with the Department. This deposit was made by them at the time when they took the Central Excise Registration for manufacture of Pan Masala etc. but they never started after the installation of the machinery, the production of the goods. They rather surrendered the licence to the Department. No evidence has been collected by the revenue to prove that the respondents even, manufactured the excisable goods and cleared the same. No such inference from mere installation of machinery by them, could be raised that they indulged in the manufacture of excisable goods. Therefore, Commissioner (Appeals) has rightly ordered the refund of the amount to the respondents. The

Board Circular dated 30-5-95 referred by the DR has no bearing on the facts of the case, as the same relates to the payment of interest in respect of the delayed refunds.

Keeping in view the above referred discussion, the impugned order is upheld and appeal of the revenue is dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com