

**Akashdeep Papers Pvt. Ltd. Vs. Commissioner of C. Ex.**

**Akashdeep Papers Pvt. Ltd. Vs. Commissioner of C. Ex.**

**SooperKanoon Citation :** [sooperkanoon.com/39850](http://sooperkanoon.com/39850)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Jul-29-2005

**Judge :** S Kang, Vice-

**Appellant :** Akashdeep Papers Pvt. Ltd.

**Respondent :** Commissioner of C. Ex.

**Judgement :**

2. The appellant filed this appeal against the order-in-appeal passed by the Commissioner (Appeals). The appellant is a registered dealer. On 3.2.1999 the officers of Revenue visited the premises of the appellant, it was found that in their statutory record i.e. RG-23D register, the appellant shown a quantity of 10341 Kgs. of kraft paper as balance stock whereas no such stock was found in the premises. The Director of the appellant informed that due to congestion in the area their godown was overcrowded, therefore, kraft paper was stored at a different place in a separate godown. A show cause notice was issued for reversal of credit of Rs. 38,391/- and for imposition of penalty. The adjudicating authority confirmed the demand and imposed penalty of equal amount.

4. The contention of the appellant is that Revenue is not disputing the fact that the kraft paper as mentioned in their record were stored at a different godown. No doubt this godown is not registered with the excise authorities, however, this godown is registered from the sales taxes authority. The appellant relied upon the observations made by the Commissioner (Appeals) in the impugned order to submit that Revenue admitted that the goods were available in the godown which

is not registered with the Revenue authorities. The contention is that on 8.2.1999 and 16.4.1999, the appellant also made a request for registration of the premises where the goods were stored. The contention is that in this situation the impugned order is not sustainable.

5. The contention of the Revenue is that a registered dealer is required to declare the godown to the Revenue authorities so that the goods lying on the dealer can be verified. In the statutory record, the appellants were showing certain quantity of kraft paper involving duty of Rs. 38,391/- and on verification, it was found that kraft paper was not available in the registered godown, therefore, the duty was rightly demanded from the appellant.

6. In this case the contention of the appellant is that the craft paper was stored in a godown other than registered godown, this fact is noticed in the impugned order. The Commissioner (Appeals) held that appellants suppressed the fact of removal of the kraft paper to other unregistered premises without prior permission, therefore, they contravened the provisions of Central Excise rules. In this case, the Revenue is disputed the fact that kraft paper which was shown in the balance stock was stored at a godown which is not registered with the Revenue authorities. In this situation, the credit in respect of such kraft paper cannot be denied, therefore, the demand is set aside.

However, taking into consideration the facts and circumstances of the case as the goods were removed from the registered godown without intimation to the Revenue, therefore, the appellants are liable for penal action. Keeping in view the penalty of Rs. 5,000/- will meet the ends of justice. The appellants are liable to pay penalty of Rs. 5,000/-.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**