The Simplex Mills Co. Ltd. Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jul-29-2005

Judge : J Balasundaram, Vice, A M Moheb

Appellant : The Simplex Mills Co. Ltd.

Respondent : Commissioner of Central Excise

Judgement :
1. These appeals arise out of the orders of the Commissioner (Appeals).

In the impugned orders, the Commissioner (Appeals) upheld the decision of the lower authority who directed the appellants to apply for provisional assessment and execute a bond covering the differential amount even though show cause notices have already been issued in regard to the valuation of yarn captively consumed by the appellants.

The grievance of the appellants is that when a show cause notice is already issued on the same issue, the department should not have directed them to execute a bond and follow the route of provisional assessment. A similar issue in the appellants' own case has come up before the Tribunal in . The Tribunal held that demand notices once issued to the appellants, they are not required to execute a bond or give a bank guarantee for provisional assessment. Following the ratio of this decision, we hold that the appellants' plea that they are not required to go through the route of provisional assessment is correct.

2. The appeals are allowed. The orders of the Commissioner (Appeals) are set aside.