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Unison Metal Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-05-2005

Judge : S Kang, Vice, N T C.N.B., P Bajaj

Appellant : Unison Metal Ltd.

Respondent : Cce

Judgement :

1. The matter has been referred to the Larger Bench after taking into consideration to contrary decision of the issue i.e. Nu-Wave Shoes v.CCE 2001 (138) ELT 331 and P.T. Steel Inds. v. CCE Whether the amount of 8% debited from RG-23A Part-II Account in terms of the provisions of Rule 57CC(1) and collected from the customers is required to be deposited with the Govt. under the provisions of Section 11D of Central Excise Act. In para 9 of the.

referral order the Bench observed that we are not passing any order on the other issue raised by the appellant as regards the limitation or the fact that this amount of 8% was not collected from their customers.

3. Before deciding the issue whether the amount of 8% debited from RG.23A Part-II Account in terms of the provisions of Rule 57CC(1) and collected from the Customer is required to be deposited within Govt. in terms of the provisions of Section 11D of Central Excise Act, the issue whether the amount of 8% was collected by the assessee from their customer or not. If the amount is not collected, the applicability of Section 11D will not arise, therefore, the matter is

referred back to the regular Bench as on the facts given in the referral order, the question of law as referred does not arise, therefore, reference is returned. Appeal be placed before Regular Bench.

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