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Jind Textiles Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-19-2005

Judge : S Kang, Vice-

Appellant : Jind Textiles Ltd.

Respondent : Cce

Judgement :

1. Common issue is involved in these appeals, therefore, these are being taken up together for disposal.

2. In these cases, the refund claims filed by the appellants, in pursuance to the decision of the Hon'ble Supreme Court in the case of Laghu Udyog Bharti and Ors. v. UOI reported in 1999 (84) ECR 53 (SC), were rejected in view retrospective amendment of the law.

3. The retrospective amendment was also challenged in the Hon'ble Supreme Court and the Hon'ble Supreme Court in the case of Gujarat Aambuja Cements Ltd. and Anr. v. UOI reported in 2005 (120) ECR 377 (SC) upheld the constitutional validity of provisions to Sections 116 & 117 of the Finance Act 2000. In view of the above decision of the Hon'ble Supreme Court, whereby the constitutional validity of the provisions was upheld, the service tax paid by the present appellants will be deemed to have been paid under the valid provisions. Therefore, request for refund of amount is not sustainable. In these circumstances, I find no infirmity in the impugned order. The appeals are dismissed.

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