

Commissioner of Central Excise Vs. V.H. Patel and Co.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-05-2005

Judge : T Anjaneyulu

Appellant : Commissioner of Central Excise

Respondent : V.H. Patel and Co.

Judgement :

2. In all these appeals, duty amount involved is less than Rs. 50,000/- (Rupees Fifty Thousand only). The original adjudicating authority has sanctioned refund order. The Department went in appeal. The Commissioner of Central Excise & Customs (Appeals), Nashik, has confirmed the same basing on the judgment in the case of Mafatlal Industries Ltd. 1987 (89) ELT 247 (SC) rendered by the Apex Court.

3. The contention of the Department is that the refund order is illegal as the same is hit by limitation and the duty was not deposited under protest.

4. I have perused both the orders. The Commissioner (Appeals), while relying in para 83 of the judgment in Mafatlal's case, has confirmed the Order of original adjudicating authority holding that the deposit made by the assessee during the pendency of the appeal proceedings amounts to deemed protest and the claim is not hit by limitation.

Therefore, I do not see any substantial question of law is involved in the above appeals so as to exercise discretion in admitting the same. I find no merits to admit these appeals. Accordingly, all these appeals are rejected.

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