Commissioner of Central Excise Vs. JaIn Irrigation System Ltd.

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SooperKanoon Citation : sooperkanoon.com/41101

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-09-2005

Judge : S T S.S.

Appellant : Commissioner of Central Excise

Respondent : JaIn Irrigation System Ltd.

Judgement :
1. After hearing both sides & considering that the Respondents in this case claim the refund as the buyer of the goods and not as manufacturer, assessee the application of the principles of unjust enrichment as applied treated by Revenue in the present appeal cannot be upheld. This is more so when it is found that the claimant is an 100% EOU who uses the subject goods in the manufacture of goods exported from India on which no duty liability could be raised. The said goods, as raw material could have been procured by an EOU without discharge of duty. The same facility could not be obtained as a CT Certificates were not available at the relevant time. In view of the facts of this case I cannot find any reason to set aside the ld.Commissioner (Appeals) order. The order is upheld. The present appeal rejected.