SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Uni Deritend Ltd. Vs. Commissioner of Central Excise

Uni Deritend Ltd. Vs. Commissioner of Central Excise

SooperKanoon Citation : sooperkanoon.com/41102

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-09-2005

Judge : S T S.S.

Appellant : Uni Deritend Ltd.

Respondent : Commissioner of Central Excise

Judgement :

1. The claim for refund under Rule 173L was settled in favour of the appellants on 22-8-01. Consequent to this settlement the Asst.

Commissioner ordered the appropriation of the said amount against a pending demand on some other issue. The assesssee went in appeal, which was allowed by Commisioner (Appeals) on 30-4-03 consequent to this order of CCE (A) implementation was effected by the lower authority by a notice for rejection of refund on certain grounds. The ground were met /complied by the assessee on 29-7-03. The refund amount was sanctioned on 29-7-03. The appellants have made a claim for interest from 29-8-98 i.e. from 3 months from making the claim for refund under Rule of 173L. This interest claimed, has been totally rejected by the lower authorities on the ground that refund became entitled only on 20-5-03 i.e. the date on which the appellants filed the appropriate refund claim consequent to an order of Commissioner (Appeals) dtd 30-4-03 & the same stands settled on 29-7-03.

2. After hearing both sides & considering the material on record the order of the lower authorities cannot be upheld, Refund in this case was due on the date of the same being settled. All subsequent mishandling of the refund claim without any authority of law behind it or by any reasons propositions cannot deprive the interest liability after that date. The matter is therefore remitted back to the original authority to determine the interest due on from the date it was settled by the Commissioner (Appeals) vide his order dated 22-8-01. Appeal allowed in above terms.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com