

Commissioner of Central Excise Vs. Tata Ssl Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-11-2006

Reported in : (2005)(191)ELT799Tri(Mum.)bai

Judge : A T K.K.

Appellant : Commissioner of Central Excise

Respondent : Tata Ssl Ltd.

Judgement :

1. In this case the Revenue has filed an appeal on a limited ground that the Commissioner (Appeals) has accepted an addendum to the grounds of appeal five months after the filing of appeal and since there is no 13/199/3 provision to file such type of addendum for additional issue beyond the prescribed appeal period under the provision of Section 35 of the Central Excise Act, 1944, such addendum could not have been entertained and the decision based on the same is required to be set aside.

3. I have considered the submissions. I find that Section 35A which states as under: The Collector (Appeals) may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal, if the Collector (Appeals) is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable 4. Therefore, once this provision allows the Commissioner (Appeals) to entertain any fresh ground of appeal at the time of hearing, entertaining an addendum adding another ground of appeal

cannot be considered to be unjustified or beyond the power of Commissioner (Appeals). When grounds of appeal can be added without being submitted in writing at the time of hearing there can be no challenge to adding an additional ground by filing an addendum before the hearing.

5. In view of above, I find no merits in the Revenue appeal and accordingly dismiss the same.

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