

**Sail-cmo Vs. Commissioner of Central Excise**

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**SooperKanoon Citation :** [sooperkanoon.com/42685](http://sooperkanoon.com/42685)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Calcutta

**Decided On :** May-19-2006

**Judge :** S T S.S., K Kumar

**Appellant :** Sail-cmo

**Respondent :** Commissioner of Central Excise

**Judgement :**

1. Heard both sides. The appellants transferred billets to various parties under cover of Central Excise Invoices for converting them into TOR steel. Such TOR steels were sold by them to their buyers and were delivered directly from the premises of the converters accompanied by the Central Excise Invoices issued by the converters who paid duty of Rs. 300/- PMT under the Compounded Levy Scheme under Section 3A of the Central Excise Act, 1944. In all these cases, sales were effected to various State Government Agencies, Border Roads etc. on a consolidated price i.e. all inclusive price as agreed upon between the buyers and the sellers, i.e. the appellants. A show-cause notice was issued proposing to recover amounts representing Central Excise duty under the provisions of Section 11D of the Central Excise Act, 1944. We find that the recoveries to be effected under Section 11D, are not covered under the provisions of Section 35F of the Central Excise Act, 1944.

Therefore, no predeposit of the said amount is called for. In this view of the matter, petition is allowed. Therefore, the application is disposed off accordingly.