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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-25-2006

Judge : S T Chittaranjan

Appellant : Basf India Ltd.

Respondent : Commissioner of Customs

Judgement :
1. Heard both sides. The appellants have re-exported the impugned goods which according to them was different from what they had ordered at the time of import. The re-export was done in terms of the adjudication order dated 25-1-2001 on payment of redemption fine and penalty imposed by the original authority. The present appeal arises out of rejection of the appellants' refund claim. From the facts and the case records, I find that the appellants had paid Customs duty of Rs. 5,03,441/- against B/E. No. 655409, dated 20-9-2000. Since the goods did not tally with the declared description, the same were adjudicated and as stated above, were subsequently re-exported. As such, the goods were not cleared for home consumption at any stage and the re-export was done by the appellants when the same were under the customs control. In such a case, the appellants are entitled to refund of the Customs duty paid by them in respect of the goods which were never cleared by the appellants. Hence the rejection of refund claim on the ground that they have not exported the same under claim for drawback is not justified.

2. Accordingly, I set aside the impugned order. The appeal is allowed with consequential benefit to the appellants.