

Devasthan Vibhag Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-30-2007

Reported in : (2008)10STR415

Judge : P Das

Appellant : Devasthan Vibhag

Respondent : Commissioner of Central Excise

Judgement :

1. The appellants filed this appeal against rejection of refund claim of Rs. 2,81,370/-. Ld. Advocate on behalf of the appellants submits that there is no dispute that the appellant is entitled to get the refund of tax. The only dispute is that the adjudicating authority is within the jurisdiction of Jaipur-I Commissionerate. The appellant deposited the tax within the jurisdiction of Jaipur-II. Ld. Counsel drew the attention of the Bench to the letter dated 9-1-2007 of the Addl. Accounts Officer, Jaipur Commissionerate-I addressed to the Asstt. Commissioner, Devasthan Dept. Bikaner.

2. Ld. DR reiterates the findings of the Commissioner (Appeals). He submits that the adjudicating authority rightly rejected the refund claim as the deposit was made within the jurisdiction of the other adjudicating authority.

3. After hearing both the sides and on perusal of the records, I find that there is no dispute that the appellant is entitled to get the refund of tax. In any event, the

appellant deposited the tax, which is not within the jurisdiction of the adjudicating authority, cannot be the reason for denial of the refund claim. It is seen that the Chief Accounts Officer of Central Excise Commissionerate, Jaipur-I by his letter dated 9-1-2007 observed that the refund is payable to the appellant and the concerned Asstt. Commissioner, if requires any clarification, he can write to his office. Hence, I set aside the impugned order and the matter is remanded back to the adjudicating authority to decide afresh after taking into consideration the letter of the Chief Accounts Officer, as stated above. Thus, the appeal is allowed by way of remand.

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