F.C.i. Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-14-1988

Reported in : (1989)(20)LC292Tri(Delhi)

Judge : M T D.C., G Agarwal, J T P.C.

Appellant : F.C.i.

Respondent : Collector of Central Excise

Judgement :

1. We have heard Shri J. Banerjee, learned Advocate for the applicants and Shri S. Chakrabarti, learned D.R. for the respondent The Bench has pointed out to Shri Banerjee, learned Advocate, that the appeal which was disposed of by this Tribunal vide order no. 371/88-C dated 31.5.1988 related to determination of a question having relation to the rate of duty of excise and as such a reference application does not lie before this Tribunal under Section 35-G of the Central Excises and Salt Act, 1944. Shri Banerjee concedes this point and says that in view of this provision he has nothing to argue on this matter.

2. Shri Chakrabarti, learned D.R. has stated that no reference lies in this matter before the Tribunal in view of the Tribunal's earlier decision in the case of India Jute Co. Ltd. v. Collector of Central Excise, Calcutta 3. We have considered the facts of the case and the arguments of both parties. This Tribunal has taken the consistent view in a number of cases the no reference application under Section 35G of the Central Excises and Salt Act, 1944 lies before the Tribunal in cases

where determination of any question having a relation to the rate of duty is involved. No contrary decision has been cited before us by either of the parties. Following the earlier decisions, we, therefore, dismiss this reference application as not maintainable.