Collector of Central Excise Vs. Rewa Sugar Works and anr.

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Court : Allahabad

Decided On : Aug-09-1991

Reported in : 1991(37)LC190(Allahabad)

Judge : B.P. Jeevan Reddy, C.J. and; R.E. Mehrotra, J.

Appellant : Collector of Central Excise

Respondent : Rewa Sugar Works and anr.

Disposition : Application dismissed

Judgement :

1. Though as many as ten questions are sought to be raised under Section 35G(3) of the Central Excises and Salt Act, 1944, only one question is argued before us which is comprised in Questions No. 2 to 4. Indeed it appears that Questions No. 1, 7 to 10 were not even raised in the application for reference filed before the Tribunal. Be that as it may, we will address to the only aspect argued before us.

2. The only question for consideration is whether the refund claim filed by the petitioner was beyond the period of limitation prescribed in Section 11B of the Act; six months is the period of limitation. Within six months' period, the respondent manufacturer filed the refund claim. It was addressed to the Excise Collector, Central Excise, Sa-haranpur through the Supdt. It was filed before the Supdt., in the office of the said Asstt. Collector. Though it was filed within the period of limitation before the Supdt., by the time he forwarded it to the Asstt. Collector and

the latter received it, six months period had expired. On this ground the refund claim was dismissed as barred by limitation. The Tribunal has held, in our opinion rightly, that the rejection is unjustified. The application was not even addressed to the Supdt. It was addressed to the Asstt. Collector, namely, the jurisdictional officer. It was addressed to him through the Supdt., and was filed before the Supdt., working in the office of the jurisdictional Asstt. Collector only. In these circumstances to say that the application was filed beyond limitation is totally unjustified.

3. The application for reference is accordingly rejected. No order as to costs.