

Raj Sulphur Sugar Industries Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-04-1983

Reported in : (1983)(14)ELT2447TriDel

Appellant : Raj Sulphur Sugar Industries

Respondent : Collector of Central Excise

Judgement :

1. The Appellants were working under the compounded levy scheme for Khandsari sugar under Rule 92B of the Central Excise Rules, 1944. This scheme required them to make an advance deposit with the Government of a sum equal to two week's duty. Sub-rule (4) of Rule 92B which is the material rule applicable is reproduced below for ready reference :- "The sum referred to in Sub-rule (2) shall be tendered by the manufacturer at the time of submission of the application under Rule 92C initially for a period of two weeks and thereafter weekly payment shall be made by such manufacturer two days in advance of the week next following, so that at the beginning of every week, such manufacturer's deposit shall be equal to the amount of duty payable by him for two weeks, and the balance out of the duty so deposited, if any, shall be adjusted at the end of the season if so desired, by the manufacturer who had made the deposit." 2. The appellants state that their khandsari season ended in May, 1978.

In the next season, they did not run their factory. They applied for refund of the money lying in deposit with the Government on 12-12-78.

The lower authorities have rejected their claim as time-barred under Rule 11 as it was filed beyond the time-limit of six months. Their plea before us is that the time-limit prescribed in Rule 11 did apply to deposits. During the hearing before us today, they reiterated this plea and relied on certain instructions issued by the Government during early 1980 in support of their case. The Department's Representative stated that in view of the Government's instructions cited by the appellants, he had nothing to say.

3. We have carefully considered the matter. The time-limit contained in Rule 11 applied to refund of duty and charges. It did not apply to refund of the "sum" kept in "deposit" with the Government in terms of Rule 92B. Refund of such deposits is governed by the general law of limitation. Accordingly, we allow the appeal with consequential relief to the appellants.

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