Collector of Central Excise Vs. Gupta Glass Traders

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-21-1995

Reported in : (1996)(83)ELT187TriDel

Appellant : Collector of Central Excise

Respondent : Gupta Glass Traders

Judgement :

1. These appeals involving common issue arise against order dated 23-9-1992 passed by the Collector of Central Excise (Appeals), Chandigarh.

2. In this case refund claims were filed before the Assistant Collector on the ground that the goods, viz., Block Boards were classifiable under 4410.90 attracting nil rate of duty in. terms of Tribunal's Order No. 790 to 792/90-D, dated 18-12-1990 whereas the goods had been charged to duty under subheading 4408.90 of the Central Excise Tariff Act, 1985. Collector (Appeals) held that the claim for refund filed by the respondent had been sanctioned and the amount of refund had actually been paid before coming into force of the Central Excise & Customs Laws (Amendment) Act, 1991, dated 18-9-1991. There was no legal basis on the part of the Revenue to demand amounts on the grounds of unjust enrichment.

3. No one is present on behalf of the respondent. On behalf of the appellant-Collector, Shri Y.R. Kilania, JDR reiterated the grounds as given in the Memo of Appeal.

4. In this case, as pointed out by the Collector (Appeals) the refund amount had been sanctioned and also paid before coming [into] force of the Central Excises & Customs Laws (Amendment) Act, 1991. I am, therefore, inclined to agree with the finding in the impugned order that there is no provision in law to invoke the provisions of the said amendment dated 18-9-1991 on the ground of unjust enrichment. I therefore do not find any infirmity in the impugned order.