

Customs, Excise and Gold Tribunal - Delhi

Commissioner Of C. Ex. vs Modern Woollen Mills (P) Ltd. on 29 October, 1999

Equivalent citations: 2000 (115) ELT 111 Tri Del

ORDER S.S. Kang, Member (J)

1. This Reference application filed by the Revenue for referring the following question of law to the Honble High Court for their valuable opinion:

Whether a protest letter will still held even when the classification list is approved finally on the issue for which protest was filed earlier to the approval of the classification list".

2. Heard both sides.

3. In this case the Revenue wants to refer the question "whether a protest letter will still hold even when the classification list is approved". We find that the Tribunal in the Final Order held that after the approval of the classification list the assessee is paying duty at the higher rate under protest as evidenced from the letter dated 30-8-1976. Under Section 35G of the Central Excise Act, 1944, the question that could be referred to the Hon'ble High Court should arise out of the order. The question before the Tribunal was whether the duty was paid under protest. It was purely a question of fact and not law. Therefore, no question of law is arising out of the final order which requires reference to the Hon'ble High Court. The Reference application is rejected.