

Customs, Excise and Gold Tribunal - Mumbai

Commissioner Of C. Ex. And Customs vs Spm Tools on 1 October, 1996

Equivalent citations: 1998 (99) ELT 147 Tri Mumbai

ORDER P.K. Desai, Member (J)

1. None represented the Respondents though notice has been duly served. Invoking the provision of Section 35E of the Central Excises and Salt Act, 1944, the department has sought reference on the issue framed by them arising out of Order No. 2014/96-WRB, dated 28-6-1996 - 1997 (89) E.L.T. 199 (Tribunal) passed by this Bench. The issue framed reads thus :

Whether the interpretation of Rule 57B done by the Appellate Tribunal is held as proper and just which states that the higher notional credit, availed can be allowed on the inputs received within six months from the date of claim?

2. Heard Shri K.M. Mondal, the Id SDR, who submits that the issue is of availment of higher notional credit at a later date and that Rule 57B read with other provisions of the Modvat scheme does not permit availment of credit in part at different dates. What the Tribunal has held in the impugned order is that Rule 57B read with other provisions of the Modvat scheme entitles the person receiving inputs from SSI units to avail Modvat credit at the higher notional rate and that there can be no adverse discriminatory treatment given to the small scale manufacturers. Going by the question that has been formulated by the department, besides the same being vague one, only the issue is, as to whether higher notional credit can be availed of at a later date. There is no bar expressly or impliedly provided for in any of the relevant rules disentitling the party from availing of credit at a later date and this being the position the issue as formulated does not give rise an issue of law worth referring to the High Court. The prayer therefore is rejected and Reference Application is consequently rejected.