(2010) 12 P&H CK 0609

In the Punjab And Haryana At Chandigarh

Case No : C.M. No. 31618 CII of 2010 in C.C.E.S. No. 28 of 2001 (O and M)

Commissioner Central Excise APPELLANT

Vs

Satia Papers Mills Ltd. and Another RESPONDENT

Date of Decision : 20-12-2010

Acts Referred:

Central Excise Rules, 1944 — Rule 57
Central Excises and Salt Act, 1944 — Section 35H(I)

Citation : (2010) 12 P&H CK 0609

Hon'ble Judges : Rakesh kumar Garg, J;A.K. Goel, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Adarsh kumar Goel, J.

C.M. No. 31618-CII of 2010:

1. Application is allowed. The petition for reference of question of law to this Court u/s 35H(1) of the Central Excise and Salt Act, 1944 is taken up for hearing.

C.C.E.S. No. 28 of 2001

2. The revenue seeks direction for reference of following question of law for opinion of this Court:

Whether the Tribunal is correct in holding the MODVAT Credit admissible under Rule 57-A in respect of the credit of duty paid on synthetic cloth/felt and dryers fabric/S.S. Plain wire cloth single/multi layer which can at best be said to be parts of machinery C.C.E.S. No. 28 of 2001 used in the manufacturing of writing and printing paper and therefore covered in the exclusive clause in the explanation under Rule 57-A of Central Excise Rules, 1944. When the CEGAT''s Large bench decision already stands referred to the High Court vide Tribunal order No. A/83-85/96 dated 31.10.1996 in the case of Union Carbide of India and similar matter pending before the Hon''ble Punjab and Haryana High Court, in the case of Zenith Paper which has been referred by the CEGAT vide its reference order No. R/159 and R 159/97 NB dated 28.7.1998 to Hon''ble Punjab and Haryana High Court, Chandigarh.

Learned Counsel for the revenue fairly states that the question of law stands adjudicated against the revenue by order of this Court dated 22.3.2010 in G.C.R. No. 16 of 1999 CCE v. M/s Amrit Paper Mills Ltd.

In view of above, this petition is dismissed.

