(2007) 03 P&H CK 0050

In the Punjab And Haryana At Chandigarh

Commissioner of C. Ex. APPELLANT

Vs

Bharat Box Factory Ltd. RESPONDENT

Date of Decision : 01-03-2007

Acts Referred:
Central Excises and Salt Act, 1944 — Section 35G

Citation : (2009) 13 STR 212

Hon'ble Judges : Rajesh Bindal, J;M.M. Kumar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—This appeal filed u/s 35G of the Central Excise Act, 1944, is directed against the order dated 7-10-2004(P-4) passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi. The revenue has claimed that the following question of law would arise for determination of this Court:

Whether post-clearance adjustment like issuance of credit notes by the assessee who is claiming refund, to buyers of the goods, taking back the burden of duty on the goods would help the assessee to get over the bar of unjust enrichment u/s 11B of the Central Excise Act, 1944?

2. There are categorical findings recorded by the Tribunal that the question of unjust enrichment would not arise from the facts of this case. From perusal of para 6 of the order of the Tribunal it clearly emerges that the assessee did not receive higher duty amount or price from the buyers and no amount of duty was passed on to the customers. Therefore, no question of unjust enrichment within the meaning of Section 11B of the Act would arise. Even otherwise the total amount involved in the present case is Rs. 14,924/- which is a paltry sum. Therefore, no question of law much less substantial question of law would arise for our determination. The appeal is without any merit and the same is accordingly dismissed.

