(2010) 03 P&H CK 0056

In the Punjab And Haryana At Chandigarh

Case No : G.C.R. No. 9 of 2003

Commissioner of C. Ex. APPELLANT

Vs

Dashmesh Castings Pvt. Ltd. RESPONDENT

Date of Decision : 18-03-2010

Acts Referred:

Citation : (2010) 257 ELT 225

Hon'ble Judges : Mehinder Singh Sullar, J;Ashutosh Mohunta, J

Bench : Division Bench

Judgement

Ashutosh Mohunta, J.—This reference has been directed against the order dated 10-10-2000 2001 (130) ELT 658 passed by the Customs, Excise and Gold (Control) Appellate Tribunal, New Delhi, whereby it has placed reliance on the findings recorded by the Commissioner (Appeals) and has upheld the order dated 31-3-1999 holding that no reliance could be placed on the octroi receipts which do not contain any iota of evidence that the material mentioned therein had been cleared/sold by the assessee. The receipts only depict the description of the goods and vehicle number but do not establish by any evidence that these octroi receipts relate to the assessee as it did not contain any reference to their name or their bill number. It has further been held that no enquiry was made by the Revenue from the Octroi Post Authorities as to how and on what basis octroi receipts were issued and therefore the charges against the dealer-assessee remained unsubstantiated. However, the Revenue has claimed that following substantive question of law would arise for determination of this Court:

Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the octroi receipts without any other evidence could not form the basis of clandestine removal of the exciseable goods from the factory?

2. Having heard learned Counsel we are of the considered view that the findings of fact recorded by the Commissioner (Appeals) and upheld by the Tribunal do not suffer from any legal infirmity warranting interference of this Court. We are further of the view that no question of law much less a substantive question of

law would arise for determination of this Court. These are pure findings of fact. There is no connecting evidence on record to show that the octroi receipts could be connected to the assessee as these octroi receipts do not contain any reference to their name or bill numbers. There is thus no merit in this reference and the same is dismissed.

