(2010) 03 P&H CK 0323

In the Punjab And Haryana At Chandigarh

Commissioner of C. Ex. APPELLANT

Vs

Industrial Cable Ltd. RESPONDENT

Date of Decision : 18-03-2010

Acts Referred:
Central Excises and Salt Act, 1944 — Section 11A

Citation : (2010) 254 ELT 32

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

Bench : Division Bench

Judgement

Ashutosh Mohunta, J.—The Customs, Excise & Gold (Control), Appellate Tribunal has referred the following substantial question of law for adjudication by this Court:

Whether prior to 6-10-88 Rule 57I of the Central Excise Rules, 1944 was subject to the provisions of Section 11A of the Central Excise Act, 1944?

2. In the present case, the manufacturer wrongly availed the modvat credit, during the period 7-4-86 to 12-4-86 on certain items without filing declaration for them under Rule 57C of the Central Excise Rules, 1944. The revenue had raised a demand for recovery of wrongly availed modvat credit in April, 1987. The question is whether prior to 6-10-88, there was any limitation to claim recovery of wrongly availed modvat credit.

3. Section 11A of the Central Excise Act was not on the statute book when the demand was made in April, 1987. This provision was inserted on 6-10-1988 and as the demand of recovery of wrongly availed modvat credit was prior to 6-10-88, hence, there was no question of any limitation claiming the recovery. Resultantly, the question posed is answered in favour of the revenue and against the assessee.

