
(2003) 10 P&H CK 0003
In the Punjab And Haryana At Chandigarh
Case No : CEC No. 58 of 2002

Commissioner of Central Excise

APPELLANT

Vs

Punjab Recorders Ltd. and Another

RESPONDENT

Date of Decision : 13-10-2003

Acts Referred:

Central Excises and Salt Act, 1944 — Section 35H, 35L

Citation : (2004) 91 ECC 224 : (2004) 165 ELT 34

Hon'ble Judges : V.M. Jain, J;N.K. Sodhi, J

Bench : Division Bench

Advocate : Govind Goel, for the Appellant; Jagmohan Bansal, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Sodhi, J.—The assessee is engaged in the manufacture of Uninterrupted Power Supply System (UPS). The Officers of the Central Excise visited the factory premises of the petitioner on 16.12.1994 and found that during the period from 20.3.1992 to 13.7.1992 the assessee had cleared Lead Acid Batteries valued at Rs. 9,07,600 involving duty amounting to Rs. 98,838.50. In other words it was found that the assessee had not paid excise duty on the value of the Lead Acid batteries. CEGAT has found that the Lead Acid Batteries were part and parcel of the UPS system and that the assessee had not paid the excise duty on the value of the batteries and, therefore, a demand of duty for the aforesaid period was justified. In other words the finding is that the assessee had under-valued the goods for the purposes of payment of excise duty. No doubt this finding has been recorded against the assessee and the assessee has not challenged the same but in view of the provisions of Section 35H read with Section 35L of the Central Excise Act, 1944, we are clearly of the view that a question pertaining to the value of goods for purposes of assessment was involved before the Tribunal and, therefore, this reference petition filed by the Department is not maintainable in this Court and that an appeal would lie only to the Supreme Court. Department has filed the present petition seeking reference of a question pertaining to the

levy of penalty. Since the reference petition is not maintainable, the issue will have to be decided by the Apex Court.

Consequently, the petition is rejected.