(2009) 07 P&H CK 0031

In the Punjab And Haryana At Chandigarh

Commissioner of Central Excise APPELLANT

Vs

Swastic Steel Works RESPONDENT

Date of Decision : 08-07-2009

Acts Referred:

Citation : (2009) 07 P&H CK 0031

Hon'ble Judges : M.M. Kumar, J;Jaswant Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—This order shall dispose of bunch of eight appeals CEA Nos. 47 to 54 of 2009 as all the appeals are directed against the common order dated 3-6-2008 passed by the Custom Excise and Service Tax Appellate Tribunal, New Delhi (for brevity ''the Tribunal''). The Tribunal has placed reliance on the findings recorded by the Commissioner (Appeals) and has upheld the order dated 28-4-2006 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 M/s. Surbhi Gas Service, Mandi Gobindgarh. 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 M/s. Surbhi Gas Service 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 issued by the State Revenue Authority authenticating removal of goods, without consignor''s name and address and his bill No., do not constitute sufficient evidence for holding that the goods covered under the octroi receipts were not received by the parties enabling them to take

Cenvat credit fraudulently?

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 M/s. Surbhi Gas Service as these octroi receipts do not contain any reference to their name or bill numbers. There is thus no merit in these appeals and the same are dismissed.