(2012) 03 KAR CK 0055

In the Karnataka High Court

Case No : C.E.A. No. 33 of 2011

Commissioner of Central Excise, Bangalore-II — APPELLANT

Vs

Pearl Insulation Ltd. — RESPONDENT

Date of Decision : 02-03-2012

Acts Referred:

Citation : (2012) 281 ELT 192 : (2012) 27 STR 337

Hon'ble Judges : Ravi Malimath, J;N. Kumar, J

Bench : Division Bench

Advocate : Y. Hariprasad, for the Appellant; R. Dakshina Murthy for K.S. Ravi Shankar, for the Respondent

Final Decision : Dismissed

Judgement

N. Kumar, J.—This appeal is filed by the Revenue challenging the order passed by the Tribunal holding that when the Assessee reversed the entire amount attributable to the credit taken, which were utilized in exempted products and in fact not utilized the amount of Cenvat credit, there is no liability to pay interest. In fact, this Court had an occasion to consider the said question in the case of The Commissioner of Central Excise and Service Tax Vs. Bill Forge Pvt. Ltd., has held, interest is compensatory in character and is imposed on an assessee who has withheld payment of any tax as and when it is due and payable. The levy of interest is on the actual amount, which is withheld and the extent of delay in paying the tax from the due date. The interest cannot be claimed from the date of wrong availment of CENVAT credit and that the interest would be payable from the date CENVAT credit is taken or utilized wrongly.In that view of the matter, we do not see any merit in this appeal. Accordingly, the appeal is dismissed.