(2002) 05 P&H CK 0105

In the Punjab And Haryana At Chandigarh

Case No : CCES No. 39 of 2002 (O and M)

Commissioner of Central Excise, Chandigarh-II — APPELLANT

Vs

JMP Industries — RESPONDENT

Date of Decision : 15-05-2002

Acts Referred:

Central Excise Rules, 1944 — Rule 57A
Central Excises and Salt Act, 1944 — Section 35H(1)

Citation : (2002) 144 ELT 304

Hon'ble Judges : N.K. Sud, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : Rajesh Gumber, ACGSC, for the Appellant;

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—The respondent is engaged in the manufacture of articles of iron. It claimed Modvat credit on the inputs. The claim was declined by the adjudicating authority. The respondent''s appeal was accepted by the Commissioner (Appeals). The Revenue challenged the order before the Tribunal. Vide order dated February 8, 2000 the claim was declined. Hence, this petition u/s 35H(1) of the Central Excise Act/1944. It prays that the following question of law be directed to be referred to the High Court for its opinion :-

"Whether the Tribunal is correct in allowing Modvat credit on grinding wheels'' as inputs under Rule 57A of the Central Excise Rules, 1944 whereas the grinding wheels are in the nature of tools ?"

2. Mr. Gumber very fairly states that the matter has been considered by this Bench in CCES No. 25 of 2001. By order dated April 30, 2002, the claim was declined in view of the decision in the earlier case, viz. Collector of Central Excise, Chandigarh v. Zenith Papers, GCR 14 of 1999 decided on January 14, 2002.

3. There is a delay of 10 days in filing the petition as also in refiling it.

Applications for condonation have been filed.

4. In view of the above noted factual position, even if we overlook the delay in filing the petition, no ground for issuance of any direction to the Tribunal is made out.

5. In view of the above, the petition is dismissed in limine.

