(2003) 05 SC CK 0042

In the Supreme Court Of India

Case No : Civil Appeal No.D5779 Of 2003

Commissioner of Central Excise, Guntur — APPELLANT

Vs

Asian Peroxide Ltd. — RESPONDENT

Date of Decision : 06-05-2003

Acts Referred:

Citation : (2003) 155 ELT 431

Hon'ble Judges : Ruma Pal, J;B. N. Srikrishna, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Delay condoned.

2. The only grievance in this appeal is that the Tribunal had gone into the issue regarding the rate of duty and the calculation of the duty when the subject matter of the show cause notice as well as the proceeding before the departmental authorities was limited strictly to the valuation of the goods clear to the DTA. It is not in dispute that in answer to the show cause notice the respondent could have raised the dispute with regard to the rate and calculation of the duty as well as the valuation of the goods in question.

3. Learned Additional Solicitor General has submitted before us that the appellate Tribunal had erred in holding that the decision in this Court in 2002 (104) ECR 945 covered the question of the calculation of the duty. Since the Tribunal has merely directed a remand of the matter, we do not interfere with the order but make it clear that the Commissioner (Appeals) will rehear the matter as directed by the Tribunal and will allow the parties to raise all issues as regards the valuation as well as the rate and calculation of duty.

4. The appeal is disposed of.