(2010) 03 P&H CK 0339

In the Punjab And Haryana At Chandigarh

Commr. of C. Ex. APPELLANT

Vs

Varinder Agro Chemicals Ltd. RESPONDENT

Date of Decision : 23-03-2010

Acts Referred:
Customs Act, 1962 — Section 46

Citation : (2010) 254 ELT 37

Hon'ble Judges : Mehinder Singh Sullar, J;Ashutosh Mohunta, J

Bench : Division Bench

Judgement

Ashutosh Mohunta, J.—The Customs, Excise and Gold (Control) Appellate Tribunal, New Delhi (for short ''the Tribunal'') has referred the following question of law for adjudication by this Court:

Whether Modvat credit is admissible only on the set of documents referred to in Sub-rule 3 of Rule 57G of the Central Excise Rules and whether the assessee was entitled to claim Modvat credit on the basis of the application for import in form number 89?

2. As per Section 46 of the Customs Act, Bill of Entry is to be presented for clearance for home consumption of goods imported (by sea/air). As the Bill of Entry was a valid duty paying document as prescribed under Rule 57G of the Central Excise Rules, 1944 for the purpose of modvat credit under Rule 57G, hence, the assessee would be entitled to modvat credit on the application for import which has been issued on the basis of Bill of Entry,

3. Reliance in this regard is placed on Commissioner of Central Excise Vs. Ralson India Ltd., , wherein it has been held that Rule 57A and Rule 57G of the Central Excise Rules being a beneficial legislation, its object of input duty relief to a manufacturer should not be defeated on a technical and strict interpretation of the Rule governing modvat. It is not the case of the Revenue that modvat credit was being claimed on the basis of any fraudulent documents.

4. Resultantly, the reference is answered in the aforementioned terms in favour

of the assessee and against the Revenue.

