Commissioner of C. Ex. Vs Prism Cement Ltd.

None

Court: Allahabad High Court

Date of Decision: May 4, 2006

Acts Referred:
Central Excises and Salt Act, 1944 â€" Section 35G

Citation: (2008) 9 STR 12

Hon'ble Judges: Vinod Chandra Misra, J; Sushil Harkauli, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

1. This is a Central Excise appeal u/s 35G of the Central Excise Act, 1944. Only one question of law has been framed by the appellant namely,

whether refund can be sanctioned to the respondents without satisfying the requirement of principle of unjust enrichment"". A perusal of the

Tribunal''s order dated 24-10-2005 shows that both the Tribunal and the Commissioner (Appeals) have recorded a finding that no unjust

enrichment has taken place. For recording this finding, reliance has been placed upon a certificate from a Chartered Accountant and books of

account (General Ledger) for the relevant period.

2. It appears that the contention of the appellant was that this material i.e., certificate of the Chartered Accountant and the books of account were

not sufficient for recording a finding that there was no unjust enrichment. Sufficiency of evidence and findings of fact are not matters on which an

appeal can be entertained.

The appeal is, therefore, dismissed.