

(2005) 07 AHC CK 0219

Allahabad High Court

Case No: None

Commr. of C. Ex.

APPELLANT

Vs

Vijay Silk House

RESPONDENT

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**Date of Decision:** July 25, 2005**Acts Referred:**

- Customs Act, 1962 - Section 47

**Citation:** (2009) 15 STR 482**Hon'ble Judges:** Rajesh Kumar, J; R.K. Agrawal, J**Bench:** Division Bench**Final Decision:** Dismissed

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### Judgement

R.K. Agrawal, J.

This appeal, filed u/s 35G of the Central Excise Act, 1944 is against the order dated 30th November, 2004 2005 (181) ELT 220 passed by the Customs, Excise & Service Tax Appellate Tribunal, New Delhi dismissing the appeal filed by the Commissioner of the Central Excise, Allahabad.

We have heard Shri A.K. Rai, learned Standing Counsel for the appellant and have perused the impugned order of the Tribunal.

2. It appears that a demand of interest has been raised by the Revenue on the ground that as per the provisions of Section 47 of the Customs Act, the duty was to be paid within two days excluding holidays on which the bill of entry was returned to the respondent for payment. The demand of interest has been raised on the ground that the TR-6 challan showing the payment of duty in respect of the bill of entry Nos. 0002/01 and 0003/-1 both dated 1-2-2001 was made after delay of five days and seven days whereas in respect of bill entry No. 004/01 payment was made after 10 days. We find that the Tribunal has held that the payment was made by the demand draft on 23rd March, 2001, 24th March, 2001 and 10th April, 2001 respectively i.e. within two days of the return of the bill of entries after the assessment to the

respondents. The Tribunal has held that the date on which the demand draft was deposited in the bank shall be treated to be the date of payment even though TR-6 challans were presented to the Customs Authorities at a subsequent date. The Tribunal has relied upon the decisions of the Apex Court in the case of [The Commissioner of Income Tax, Bombay South, Bombay Vs. Ogale Glass Works Ltd., Ogale Wadi](#), and in the case of [K. Saraswathy alias K. Kalpana \(Dead\) by Lrs. Vs. P.S.S. Somasundaram Chettiar](#), . The view taken by the Tribunal is in conformity with the law laid down by the Apex Court in the aforesaid cases and in the Board's Circular No. 28/2002-Cus., dated 24-5-2002 where a reference has been made to the cheque and not to the demand draft, would not make any material difference.

3. In view of the aforementioned facts, we find that there is no infirmity in the order of the Tribunal. It does not raise any question of law. The appeal is devoid of any merit and is dismissed.