

Electronic Circuits Ltd. Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-18-1996

Reported in : (1997)(91)ELT68TriDel

Appellant : Electronic Circuits Ltd.

Respondent : Collector of Central Excise

Judgement :

1. Being aggrieved by the order of learned Collector (Appeals) holding that bakelite sheets of paper, Aluminium Clad Entry Foil and Back-up Laminates, Tungston Carbide/Solid Carbide Drill bits, Routers, Screen Mesh of Polyester/Nylon/Steel/Metalised Polyester (Bolting Cloth), Adhesive Tapes, Plastic Backed in rolls or strip form, Acid Degreaser-Coprolite H-83 and Cuprolite x-84, Solder Cleaning Salt Solution, Glazed Transparent Paper, Gummed or Adhesive Paper and Paper boards, are not eligible for the benefit of input duty credit under the Modvat scheme. The appellants have filed the present appeal.

2. The facts of the case are that appellants are engaged in the manufacture of printed circuit boards falling under sub-heading 8534.00. The appellants purchased a number of inputs and started availing Modvat credit of duty on the inputs after filing declaration under Rule 57G. The department alleged that 42 inputs described in the Order-in-Original were not inputs used in or in relation to the manufacture of printed circuit boards. The Assistant Collector after considering the submissions made and the explanation offered by the appellants held that the input duty under the Modvat scheme cannot be allowed as Modvat credit in

respect of 11 items set out in the Order-in-Original.

3. Against this order passed by the Assistant Commissioner the appellants filed an appeal before the Collector (Appeals) who after considering the submissions of the appellant held that there was no merit in the contention of the appellant and rejected their appeal.

5. When the matter was called none appeared for the appellants. However one Shri Umesh Kumar representative of the appellant produced a letter requesting for adjournment of the case. The request for adjournment has been made on the ground that BIFR has recommended for winding up of the company. Since this was not considered as a sufficient cause for adjournment, we decide to proceed with the matter and heard the submissions of the learned JDR. We find that the requirements of Rule 57A of the Central Excise Rules, 1944 are that the goods should be specified meaning thereby that both the inputs and the final product should be specified. The second requirement of this Rule is that the inputs should be used in or in relation to the manufacture of the final products. This Rule however also provides in the explanation under clause (i) that inputs did not include machines, machinery, plant, equipment, apparatus, tools or appliances used for producing or processing of any goods for bringing about any change in any substance in or in relation to the manufacture of the final products etc.

6. The items to be considered are bakelite sheets on paper phenolic industrial laminates, aluminium clad entry foil and back up laminates - it was contended by the appellants before the lower authorities that these two items are used for the sake of getting perfect drilling saving the copper clad glass from damages and also to absorb excess heating generated at the time of drilling. Collector (Appeals) held "that these sheets only serve the purpose of sheet and though after drilling these sheets become waste. They cannot be regarded as inputs and the only consumable tools etc. and therefore Modvat credit was not admissible." On careful consideration of the submissions made and the findings of the learned Collector (Appeals) we find that there is no dispute about the use of these inputs in or in relation to the manufacture of printed circuit boards. The only dispute is that they act as tools etc. We find that bakelite sheets aluminium clad entry foil are

consumed in the process of manufacture. They are not classified as tools nor are they classifiable under any other heading pertaining to the excluded items. Having regard to the fact that these goods are consumables, and are used in or in relation to the manufacture of printed circuit boards therefore they are eligible for Modvat credit and we hold accordingly.

7. Tungston Carbide/Solid Carbide Drill Bits - No doubt the description is clear showing clearly that these three items are tools or tool bits and fall under the excluded category and therefore we agree with the findings of the learned Collector (Appeals) that no Modvat credit shall be admissible on these items.

8. Screen Mesh of Polyester - This item is used for printing design and screening. The final product is printed circuit boards. The printed circuit boards cannot be manufactured without the assistance of screen of polyester since this screen mesh is used in or in relation to the manufacture of printed circuit boards, therefore, it is an input. Now the only question is whether this item falls in the list of the items excluded in the explanation to Rule 57 A. We find that this item cannot be classified as one of the items in the exclusion clause. We therefore hold that Modvat credit of duty will be admissible on this input.

9. Acid Degreaser Cuprolite H-83 and Cuprolite x-84 - these items are used to remove oily substances, photoresist residue from the panel surface during electroplating. These two items are admittedly used in or in relation to the manufacture of printed circuit boards. These two items also do not find place in the list of items included in the excluded category. Therefore we hold that Modvat credit will be admissible on these items.

10. Glazed Transparent Paper, Gummed or adhesive paper or rolls -These items are used for packing purposes and purpose of using these as such we observe that these three items are used for making the product marketable. The Apex Court in the case of East End Paper Industries held that those items which make the product marketable are considered to be used in or in relation to the manufacture of the final product.

Following the ratio of this decision of the Apex Court we hold that Modvat credit will be admissible on these three items.

11. Having regard to the above discussion and finding the order-in-appeal (impugned order) is modified to the extent indicated above and the appeal is disposed of accordingly. Consequential relief if any shall be admissible to the appellants in accordance with law.

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