

Kwality Steels Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-06-1996

Reported in : (1997)(93)ELT172TriDel

Appellant : Kwality Steels

Respondent : Collector of Central Excise

Judgement :

1. The captioned appeal is directed against the order of the Id.Collector (Appeals) who held that in respect of Modvat credit availed by the appellants on the rods of non alloy steels, there was no declaration as required under Rule 57G(1) of the Central Excise Rules and that the appellants' request for treating their letter, dated 18-11-1991 addressed to the Asstt. Collector of Central Excise, New Delhi, as declaration under Rule 57G (1) is not acceptable in view of the fact that the requirement of Rule 57G (1) is very specific and a particular letter addressed to the Central Excise Authority cannot be claimed to be a declaration under Rule 57G (1) and that the requirement of Rule 57G (1) is of considerable importance in the scheme of Modvat system and must be scrupulously followed which the appellants failed to do.

2. The facts of the case are that the appellants are engaged in the manufacture of steel blocks residue products etc. They filed a declaration for availing Modvat credit on different items including all kinds of scrap and cutting material falling under Chapter 72. The deptt. alleged that the appellants availed Modvat credit wrongly to the extent to Rs. 32,588 without filing a declaration of the inputs falling

under tariff heading 7213.10 and therefore, issued a show-cause notice on 29-11-1994 asking the appellants to explain as to why Modvat credit should not be denied to them and why the amount should not be recovered from them and also why the penalty should not be imposed. The appellants did neither submit a written submission nor did they attend the personal hearing, therefore, the A.C. decided the case on the basis of the evidence available on record and confirmed the demand of Rs. 32,588/- and also imposed a penalty of Rs. 3,500/-. On appeal before the Id. Commissioner (Appeals), the appellants contended that in their letter dated 8-11-1991 to the Asstt. Collector, they had declared the item of scrap and end cuttings falling under Chapter 72 as inputs.

After considering the submissions of the appellants, the Id. Commissioner (Appeals) held as mentioned above.

3. Ms. Ginny Bedi, the Id. Advocate appearing for the appellants submits that a perusal of the invoice issued by Indore Steel & Iron Mills Ltd. will show that the products were described as rods of non alloy steels, wire rod rusty/pitted/rejected. In their invoice of the same company, the goods have been described as rods of non alloy steel wire rusty/rejected. The Id. Counsel submits that invoices clearly show that the material used by them as inputs was rejected material and that the rejected material is nothing but scrap. The Id. Counsel submits that a look at the declaration filed will show against serial No. 13 that the description shows all kinds of scrap and cutting material falling under Chapter 72. The Id. Counsel therefore, submits that the declaration in respect of scrap was given and therefore, the material purchased by them as scrap and used for the manufacture of finished product has correctly been described and the Modvat credit has rightly been taken. The Id. Counsel therefore, prays that since the declaration inter alia covers scrap of waste and cutting material, therefore, the appellants have rightly taken Modvat credit. In support of her contention, she cited and relied upon the judgment of this Tribunal in the case of Poddar Udyog Ltd. v. C.C.E. reported in 1994 (5) RLT 182 and in the case of Munoth Industries v. C.C.E. reported in 1996 (14) RLT 575. Summing up her arguments, the Id. Counsel submits that the appeal may be allowed.

4. Shri Nanak Chand, the Id. DR appearing for the respondent Commissioner reiterates the findings of the lower authorities.

5. Heard the submissions of both sides. I find that the main objection of the Id. Commissioner (Appeals) was that the product in question was not described and included in the declaration filed by the appellants.

On perusal of the relevant invoice. I find that the goods have been described as rejects. The rejects is nothing but a scrap. On a scrutiny of the declaration, I find that scrap and waste of all kinds have been included. In addition, I find that against Serial No. 13 all kinds of cutting etc. received as scrap have been declared as raw materials.

Further I find that in their letter dated 8-11-1991 which was in the form of a clarification on Modvat, the appellants had declared, they received different sort of scrap and the cutting of various items that those covered almost all the items of Chapter 72 and that the appellants had given details of major scraps being received by them. I find that this letter was a clarificatory letter submitted by the appellants in reply to the queries raised by the Id. Supdt, Central Excise on the declaration filed. I do not see any reason not accept this as a part of the declaration.

6. Looking to the facts and evidence on record and circumstances of the case I hold that Modvat credit was admissible on the inputs in dispute.

Accordingly, the appeal is allowed. Consequential relief, if any, shall be admissible to the appellants in accordance with law.

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