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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-04-1997

Reported in : (1997)(93)ELT58TriDel

Appellant : Central Mill Stores

Respondent : Collector of Central Excise

Judgement :

1. This is an appeal against the order of Collector (Appeals), Chandigarh dated 27-2-1992.

2. Ld. Counsel stated that the appellants had availed Modvat credit on alloy steel rounds showing them as classifiable under 7228.20/7228.30.

The A.C. had however disallowed the modvat credit on the ground that these inputs had not been declared as inputs in the declaration filed under rule 57G and confirmed the demand.

3. It was their contention that since they had admittedly declared iron and steel in their declaration as the inputs for their final output namely ball bearings the credit had been correctly taken and should have been allowed.

4. In response to queries from the bench the Ld. Counsel could not show the declaration which had been filed before the A.C. but drew attention to the reference to the same in the AC's order. In response to further queries he also drew attention to the show cause notice and the AC's order indicating that the

case had been made out on the basis of RT12 and the gate passes enclosed with it.

5. He further stated that Tribunal in its various orders had taken a broad view of the matter and therefore he leaves the matter to the bench.

6. Ld. DR stated that the appellants have not described the product in their declaration and merely indicated iron and steel which is very general and vague as the entire chapter 72 is in respect of various types of iron and steel products, and therefore it is not sufficient for modvat purposes. Furthermore, they have also indicated the heading and sub-heading against the words 'iron and steel' as 7209.90 and 7211.11. These headings relate to flat rolled products of iron or non-alloy steel and do not cover alloy steel rounds with reference to which the credit has been taken and which have not been declared. In other words not only the description is vague but even the heading and sub-heading shown in the declaration and those in the RG 23 are different and therefore the authorities below were justified in denying the benefit.

7. Ld. DR further stated that the Tribunal has in some of its orders referred to broad descriptions but also indicated that it should be sufficient for the purpose for which the declaration is given and in this respect emphasis has also been laid on showing the correct headings.

8. I have considered the above submissions. I observe that Ld. DR's contentions have a lot of force.

9. From a copy of the declaration filed under rule 57G I find that the input has been described as 'iron and steel' falling under sub-heading 7209.90, 7211.11 and these headings as rightly mentioned by the Ld. DR cover flat rolled products of iron or non-alloy steel. Therefore this declaration can at best be taken into account for products falling under these headings and sub-headings. The alloy steel rounds with reference to which the modvat credit has been taken do not find any mention either by way of description or by way of indication of heading or sub-heading. The tribunal has no doubt taken a view that the description and other indications in the declaration or accompanying, documents etc. should be sufficient to arrive at a

correct decision and if necessary more information should be called for. But in this case apparently the product has not been declared even broadly. Therefore, the authorities below were justified in holding that no declaration had been filed. The orders of the authorities below are therefore right in this respect.