

Collector of Central Excise Vs. S.G. Electronics

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-11-1997

Reported in : (1998)(102)ELT282TriDel

Appellant : Collector of Central Excise

Respondent : S.G. Electronics

Judgement :

1. The captioned appeal has been filed by the Id. Collector, Central Excise, Meerut being aggrieved by the order of the Id. Collector (Appeals) holding that in both these cases namely, the use of LCD Display Tubes and Button Cells, the inputs were directly and indirectly related to the manufacture of the final product, therefore, modvat credit is admissible on both LCD Display Tubes and Button Cells.

2. The facts of the case are that the respondents are manufacturer of pocket electronic calculators. They filed a declaration under Rule 57G consisting of 25 items to be used as inputs on which they claimed benefit of duty paid on inputs under the modvat scheme. In one of the items, the appellants, described the inputs as LED Display Tubes. When the discrepancy was pointed out, the respondents submitted that it is not LED Display Tube but it is actually LED Display Tube which is the inputs. The respondents were asked by show causes notice dated 31-10-1991 and 4-2-1992 to explain as to why modvat credit availed on button cell and the product described as LED Display Tube should not be denied to them. The Assistant Collector confirmed the demand of Rs. 2,67,463.07

on account of availment of modvat credit on the product described as LED Display Tube and Button Cell. On appeal, the Id. Collector (Appeals) accepted the contention of the respondents that the actual product was LCD Display Tube and that the description as LED Display Tube is account of Typographical error. The Id. Collector (Appeals) also held that modvat credit on button cell was eligible to them as it was an essential component of the calculator for its operation and thus allowed the appeal of the respondents herein.

Against this order of the Id. Collector (Appeals), the Revenue has filed the present appeal.

3. Shri V.R. Sethi, Id. DR appearing for the appellant Collector submits that the calculator is complete even without the button cell and therefore, button cell cannot be treated as an input used in or in relation to the manufacture of calculator. He submits that since button cells are used, therefore, the lower authorities have rightly denied modvat credit of duty paid on button cells. He submits that on the product described as LED, the findings of the Id. Collector (Appeals) appear to have been accepted.

4. None appeared for the respondents. Since the issue was a short one and decided by a number of judgments of this Tribunal, it was decided to proceed with the matter even in the absence of the respondents.

5. Heard the submissions of the Id. DR. I find that the short point for determination before me is whether button cell used in the electronic calculator is an input or not. I find that an identical issue came up for decision before the West Regional Bench of this Tribunal in the case of Jayshree Industries Ltd. v. CCE reported in 1993 (63) E.L.T.494 wherein the Tribunal held that dry battery cells fitted in quartz clocks and time-pieces are essential components to make the final product operational and marketable and are not an accessory therefore.

I find that the Tribunal further went on to explain the logic and the criteria for eligibility under Rule 57A of Central Excise Rules, 1944.

Thus Tribunal held that the questions to be asked would, in our view, be whether they are essentially required for the operational need of this gadget, if the answer is 'yes'; whether it is compulsorily supplied with the gadget at the point of delivery through factory gate and if the answer is 'yes'; then whether its value is included in the value of the gadget at the factory gate? If the answer to all the questions is positive, then in terms of the Apex Court's judgment, cited supra, we are to allow modvat credit. I find that the case before me is covered by the ratio of the above decision of the Tribunal on all its fours. I also find that the Tribunal again in the case of BPL Sanyo Ltd. v. CCE reported in 1996 (82) E.L.T. 337 held that to be an accessory of a final product is not a disqualification for modvat purposes. Again in the case of CCE v. Swaraj Mazda reported in 1993 (68) E.L.T. 258, this Tribunal held that the phrase in or in relation to the manufacture has a very wide amplitude; it not merely includes the processes and inputs essential to or incidental or accessory to the completion of manufacture (including deemed manufacture) but any item or process which is essential for making the final product marketable.

Therefore, any material or item which was normally so used and was, as a matter of commercial practice provided normally with the final product ready for delivery at the factory gate (and was not an optional accessory) would qualify as an input for the purposes of modvat.

Following the ratio of the judgments of the Tribunal cited supra, I hold that modvat credit will be eligible for use of button cell in electronic calculator. In this view of the matter, the impugned order is upheld and the appeal is rejected.

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