

United Cables Vs. Commr. of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Apr-25-1997

Reported in : (1999)(107)ELT721Tri(Mum.)bai

Appellant : United Cables

Respondent : Commr. of Central Excise

Judgement :

1. The appeal is against the order of Collector of Central Excise, holding that appellant is not entitled to take Modvat credit of the duty paid on copper rods, and wire bars purchased by it from Hindustan Copper Ltd. for the reason that the document on which the appellant took credit, the certificates issued by the manufacturer of the product certifying the payment of duty was not a valid document for taking credit as it was not so prescribed under Rule 57G.2. One of the arguments for the advocate for the appellant is that the notice is barred by limitation; it is dated 13-4-1991 and is issued in respect of credit taken between 1986-89. He contends that the allegation in the notice and which has been confirmed by the Collector in this order that the appellant resorted to suppression is not correct. He says that the appellant had annexed the documents on which he took credit with the copies of extracts of RG 23A register and other documents which formed part of the RT12 return submitted by him every month. The department was fully aware that credit was taken.

3. The Departmental Representative contends that the appellant has not specifically established that it brought to the notice of the department that it took

credit on the basis of documents and therefore the notice rightly invokes the extended period.

4. The assessee is required by Sub-rule (4) of Rule 57G as it stood at the relevant time to supply to the Superintendent the original documents evidencing payment of duty along with the extracts of RG 23A registers every month and the Superintendent is required to deface these documents and return them. There is no allegation in the notice that this has not been done and it is reasonable to accept that this would have been done. This was in fact a point specifically raised in the notice. In addition, the appellant has produced before us the copy of the pages of RG1 register which shows that test audit of Central Excise records had been collected by Audit staff for the period from November, 1986 to April, 1990 on various occasions. Such test would have been brought to the notice of the audit staff that appellant was taking credit at least with regard to the documents seized by them, on the certificate of Hindustan Copper Ltd. We are therefore satisfied that the department was aware of the credit being taken on the basis of the sale certificates. In view of this we have not considered it necessary to go through the other arguments of the appellant. There was therefore no basis for invoking the extended period.

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