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Collector of Central Excise Vs. Elcomen

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-30-1997

Reported in : (1997)(96)ELT707TriDel

Appellant : Collector of Central Excise

Respondent : Elcomen

Judgement :

1. In this appeal filed by the Revenue, the issue for our consideration is the eligibility of the components of the video cassette to the Modvat credit when used in the manufacture of blank video cassette. In Para 4 of his order, the Collector of Central Excise, Calcutta had held as under :- 4. I have considered the matter and I am convinced that the appellants have a case on merits. I find Rule 57 A of Central Excise Rules, 1944 read with Notification No. 177/86-C.E., dated 1-3-1986, provides for Modvat credit in respect of the specified in the used in or in relation to the manufacture of final product, the only restriction being that such final product is not exempted or chargeable to nil rate of duty. In terms of the said Notification No. 177/86 (supra), so long as the inputs and final product are covered by the specific chapter specified therein, duty paid on, the inputs would be available as Modvat credit. In the instant case, "inputs - Components of video cassette" -and final products - "Blank Video Cassette" - being covered by Notification No. 177/86-C.E., dated 1-3-1986 and also that the final product not being exempted or chargeable to nil rate of duty, Modvat credit in respect of duty paid on inputs is correctly available. The appellants are also correct when they

state that their final products are incorrectly taken by the department as machine, for, by no stretch of imagination 'Blank Video Cassette' could be held to be a machine.

That being the case, denial of Modvat credit on the above grounds has no sanction'in law and such denial cannot be endorsed.

2. The notice sent to the respondents had been received back un-delivered with the remarks 'left'.

3. We have heard Shri M. Jayaraman, JDR who reiterated the grounds of appeal. We find that the input components of video cassette and the final products blank video cassette were covered by the exemption under Notification No. 177/86-C.E. The blank video cassette were not exempted from duty. We agree with the Collector of Central Excise (Appeals), that the components of video cassette should not be considered as a machine for exclusion from the purview of the Rule 57A of the Central Excise Rules, 1944.

5. On the facts and circumstances of the case, we find no infirmity in the view taken by the ld. Collector of Central Excise (Appeals), Calcutta and as a result there is no merit in this appeal filed by the Revenue and the same is rejected.

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