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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-15-1997

Reported in : (1998)(99)ELT107TriDel

Appellant : Oswal Agro Mills Ltd.

Respondent : Collector of Cen. Excise

Judgement :

1. The appellants filed this appeal against the order-in-appeal No.1650-C.E./CHD/91, dated 21-10-1991 passed by the Collector of Central Excise (Appeals), Chandigarh.
2. In this case, the Modvat credit in respect of the Nickel catalyst used in manufacture of final product soap, is denied on the ground that nickel catalyst was neither used as an input nor formed a part of the final product.
3. Ld. Counsel appearing on behalf of the appellant submitted that during the process of manufacture of soap nickel catalyst is used for hydrogenation. The appellant availed Modvat credit paid on the nickel catalyst used in the manufacture of soap as an input after filing proper declaration under Rule 57G of the Central Excise Rules, 1944. He further submitted that under Rule 57A of the Central Excise Rules, 1944, there is no requirement that the inputs should be present in the final product. He further submitted that the use of Nickel catalyst is necessary for chemical expediency of manufacture of soap as such the Nickel catalyst is used in or in relation to manufacture of final product. He therefore prays that the

appeal be allowed.

4. Shri Jangir Singh, JDR on behalf of the respondents reiterated the findings of the lower authorities.

5. Heard and considered the submissions made by both the sides. In this case, the Modvat credit in respect of the Nickel catalyst used in manufacture of soap is denied on the ground that it was neither used as an input nor form a part of the final product. We find that Catalyst is a substance that increase the rate of chemical reaction. The Trade Notice No. 59/89, dated 20-7-1989 issued by Bombay-I Collectorate allowed the credit of duty paid on catalyst for being utilised for payment of duty on final products since catalysts are actually used in the manufacturing process. We also found that the Tribunal in the case of Collector of Central Excise v. Mettur Chemical Industries reported in 1991 (56) E.L.T. 465 (Tribunal) allowed the Modvat credit in respect of Mercury used as cathode used in electrolytical process in the manufacture of caustic soda. The Hon'ble Supreme Court in the case of Collector of Central Excise v. Ballarpur Industries Ltd, reported in 1989 (43) E.L.T. 804 held that sodium sulphate used for chemical reaction at one stage is treated as raw material used in the manufacture of final product.

6. In the present case, it is not disputed that Nickel catalysts are not used in the manufacture of soap. The Modvat credit is denied only on the ground that it was neither used as an input nor form a part of the final product. In view of the above mentioned decisions of the Hon'ble Supreme Court and the Tribunal, we find that nickel catalyst is being used in or in relation to the manufacture of final product. The Bombay Collectorate Trade Notice No. 59/89, dated 20-7-1989 also allowed the credit of duty paid on catalyst for being used for payment of duties on final product since the catalysts are used in the manufacturing process. In view of the above discussion, the impugned order is set aside and the appeal is allowed. However the Modvat credit is available to the appellant if otherwise available.