

Ece Industries Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-17-1997

Reported in : (1998)(97)ELT284TriDel

Appellant : Ece Industries

Respondent : Collector of Central Excise

Judgement :

1. This appeal arises from the order-in-appeal dated 9-1-1995, denying the benefit of Modvat credit in respect of Molywire in the manufacture of filaments for bulbs/tubes, which is consumed during the process but held to be hit by the exclusion clause under Rule 57A of the Central Excise Rules. While passing the order, the Collector (Appeals) has followed his previous order passed by him.

2. The learned Advocate submits that the issue is no longer res Integra and in their own case the Tribunal in Final Order No. A/564/97-NB, dated 24-4-1997 1998 (97) E.L.T. 146 (Tribunal) has held that the Modvat credit is admissible on Molywire used in electric bulb. The Tribunal has followed the ratio of the judgment rendered in the case of Collector of Central Excise v. Kalpana Lamps & Components Ltd. as reported in 1996 (17) RLT 898. The Tribunal in the case of Kalpana Lamps & Components Ltd. has taken into consideration the Larger Bench's judgment rendered in the case of Union Carbide India Ltd. v. Collector of Central Excise, as reported in 1996 (16) RLT 144. The learned Counsel submits that the Tribunal in their own case has extensively quoted the judgment of Kalpana Lamps & Components Ltd. and following the ratio allowed their claim. She submits that the

ratio of these judgments squarely apply to the facts of this case. She also points out that clarification has also been issued by the Central Board of Excise and Customs clarifying Molywire as an input for electric bulb.

3. The learned DR reiterates the departmental submissions. He relied on the judgment rendered in the case of Apar Ltd. v. Collector of Central Excise, 4. The learned Counsel in counter argument points out that the Tribunal in the case of Kalpana Lamps & Components Ltd. has observed that the decision rendered in Apar Ltd. may not be considered as a good law.

5. Considered the submissions made by both the sides. On a careful perusal of the Final Order No. A/564/97-NB, dated 24-4-1997 1998 (97) E.L.T. 146 (Tribunal) rendered in the appellants own case, I have to hold that the item Molywire used in the electric bulb is entitled for the benefit of Modvat credit. Respectfully following the judgments cited by the learned Advocate, the impugned order is set aside and the appeal is allowed.

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