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Collector of Central Excise Vs. Ideal Electronics

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-12-1997

Reported in : (1997)(96)ELT94TriDel

Appellant : Collector of Central Excise

Respondent : ideal Electronics

Judgement :

1. The respondents herein are manufacturers of Room Coolers, ceiling fans, Washing Machine and domestic appliances classifiable under Chapter Headings 84 and 85 of the Central Excise Tariff Act, 1985.

2. The Principal inputs used by the respondents in the manufacture of the above mentioned goods are copper wires, polyester films, and stampings and capacitors. The respondents were maintaining a consolidated RG 23 A Part II Register in respect of inputs utilised in the final products, in pursuance of the Board's letter No. F. 21/41/87, dated 20-4-1987 which provided conditional relaxation with regard to maintenance of consolidated RG 23A Part II Register for those intending to avail this facility. The condition was that monthly statement in the prescribed proforma along with monthly RT 12 Return was to be filed by the assessee availing of; such relaxation showing utilisation of common inputs utilised in the final product, credit of input and amount of duty paid on each final product and in case of any difference it was required to be debited from PLA if the Modvat credit utilised towards payment of duty of final product is more than the amount of credit of common inputs. The Assistant Collector, while adjudicating the show cause

notice issued to the Respondents held that Respondents were not entitled to credit on the inputs because some of the inputs were not common inputs i.e. for example capacitors for ceiling fans cannot be used for all final products such as washing machine, Room Coolers or Cooler fans. In addition, a sum of Rs. 9,389.47 was disallowed as credit for the reason that while this amount of credit was taken by the Respondents on 14-5-1991, the declaration in respect of the inputs was filed on 16-5-1991. The lower Appellate Authority held that there is no dispute that the common inputs have been used in manufacture of non-dutiable final products. The debit of duty has been made on the clearance of dutiable products by the appellants. He held that in terms of Rule 57F(3) there is no one-to-one corelation for utilisation of the Modvat credit and therefore manufacturer/Respondents was at liberty to utilise the credit in the clearance of either of the final products in the manufacture of which the common inputs had been utilised. Hence this Appeal by Revenue.

3. We have heard the ld. DR and the ld. Consultant. There is no dispute that inputs and the final product manufactured by the Respondents herein were declared in the declaration filed by them under Rule 57G.There is further no dispute that wires, stampings, capacitors and polyester films were used in all the final products manufactured by the Respondents. It appears that from the submissions of the ld. DR that what the Department means is that the inputs like capacitors of the size required for ceiling fans could not be used for other final product, in other words stamping required for other final products, would be of different size and therefore inputs cannot be considered to be common for all the final products. We find that this concept of common inputs arises when there are different final products. We find that the Respondents were permitted by the Board's letter (supra) to maintain consolidated RG 23A Part II Register. We also find that the final products manufactured by the Respondents were cleared only on payment of duty. The Collector (Appeals) has rightly held that since common inputs have been utilised in the manufacture of several final products and since there is no one-to-one co-relation utilisation of the credit taken by the Respondents on the inputs received by them, credit has been rightly availed and cannot be disallowed. We therefore, uphold the order of the Collector (Appeals) on this aspect. Regarding the amount of Rs. 9,836.47 as pointed out by the ld. Consultant for the Respondents although

the debit entry in RG 23A Part II was made on 14-5-1991 the declaration in respect of the inputs, covering this amount of credit was filed on 15-5-1991 and credit was actually taken only on 16-5-1991. Therefore, this amount of credit has also been rightly taken by the Respondent. In the result, we hold that the Respondents were entitled to the amount of credit in question. We uphold the order of the Collector (Appeals) and reject the Revenue Appeal.

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