

Commissioner of Central Excise Vs. J.K. Synthetics Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-20-1997

Reported in : (1998)(98)ELT507TriDel

Appellant : Commissioner of Central Excise

Respondent : J.K. Synthetics Ltd.

Judgement :

1. The Revenue filed this appeal against the order-in-appeal passed by the Commissioner of Central Excise (Appeals). In the impugned order the benefit of Modvat credit in respect of clean flo chemical used for removing deposits from the cooling coil of the air conditioning system, is allowed to the appellant.

2. Shri Nair, JDR appearing on behalf of the appellant submits that Clean Flo was used for cleaning removing of deposits from the cooling coil from the air conditioning system for maintaining the process conditions. This clean flo cannot be said to be input used in or in relation to production of final product. He relied upon the decision of the Tribunal in the case of Kanoria Sugar & Gen. Mfg. Co. Ltd. v. Commissioner of Central Excise reported in 1996 (87) E.L.T. 522 and submits that in this case Modvat credit in respect of lubricants and greases used merely for better operation of the machinery were denied.

He submits that applying the ratio of the decision of the Tribunal, the appellants are not entitled for benefit of Modvat credit in respect of clean flo which is used for better operation of the machinery. He therefore prays that the appeal be allowed.

3. Ld. Counsel appearing on behalf of the respondents submits that the Clean Flo is used for cleaning and removing deposits from the cooling coil in the air conditioning system which control the temperature for maintaining the process condition. Therefore the Clean Flo was an essential input for the process as well as the finished goods. He submits that the Collector of Central Excise in the impugned order relying upon the decision of the Tribunal in the case of Addisons & Co.

Ltd. v. Collector of Central Excise reported in 1990 (48) E.L.T. 281 and in the case of Cans and Closures Ltd. v. Collector of Central Excise reported in 1991 (56) E.L.T. 474. He submits that in the case of Cans and Closures, Tribunal held that cleaning reducer, coating reducer, vinyl reducer utilised for cleaning and used in the manufacture of final product are entitled for the benefit of Modvat credit. He, therefore prays that the appeal be dismissed.

4. In this case the respondents are engaged in manufacture of acrylic fibre yarn and air conditioning system is used for maintaining the process condition of the final product. The chemical Clean Flo is used for removing the deposit from the cooling coil of the air conditioning system. The Revenue relied upon the decision of the Tribunal in the case of Kanoria Sugar and Co. Ltd. v. Collector of Central Excise reported in 1996 (87) E.L.T. 522. In this case the Tribunal held that the lubricants and grease used merely for better operation of machinery and hence these are not entitled for the Modvat credit in terms of Rule 57A of the Central Excise Rules, 1944. In this case the dispute was regarding lubricants and grease which were used for the better operation of the machinery. In the present case the Clean Flo is a chemical which is used for removing the deposits from the cooling coil of the air conditioning plant. The Tribunal in the case of Addisons Company Ltd. v. Collector of Central Excise reported in 1990 (48) E.L.T. 281 allowed the benefit of anti-rust and anti-collusion oil applied on the finished tools and held that this is used in the manufacture of finished product and in the case of Cans and Closures v. Collector of Central Excise reported in 1991 (56) E.L.T. 474, the Tribunal allowed the benefit of cleaning reducer and coating reducer utilised for cleaning the other materials. Cans and Closures v. Collector of Central Excise (supra) the Tribunal relied upon the decision of the Addisons Company Ltd. v.

CCE (supra). The Tribunal held that as long as the goods used in or in relation to the manufacture of final product and are not specifically excluded from the scope of exclusion clause of Rule 57A or excluded by Notification No. 157, dated 1-3-1986, the Modvat credit is to be allowed. This view further found support from the decision of Hon'ble High Court in the case of Singh Alloys and Steel Ltd. v. Assistant Collector of Central Excise reported in 1993 (66) E.L.T. 594.

The Hon'ble High Court held that everything is input if it is manufactured and used in relation to manufacture of final product. It does not matter that the items are used in the machinery or for the purpose of machinery. The only question is that they are used in or in relation to manufacture of final product.

6. In view of the above discussion, I find no infirmity in the impugned order. The appeal filed by the Revenue is dismissed.

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