

Elecktro Controls Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-21-1997

Reported in : (1998)(99)ELT541TriDel

Appellant : Elecktro Controls

Respondent : Collector of Central Excise

Judgement :

1. In this case, Modvat credit of Rs. 3,65,006.24 p. has been disallowed to the appellants herein on the ground that the inputs on which this amount of duty was paid and taken as credit, were not described in detail in the declaration filed in terms of Rule 57G of the Central Excise Rules, 1944. The appellants are manufacturers of Control panels and Rectifiers falling under Chapter 85 of the Schedule to the Central Excise Tariff Act, 1985. They are availing credit on duty paid on inputs used in or in relation to the manufacture of final product. In the declaration, they had declared various inputs such as Switchgears, Starters, Pilot lamp holders and other switchgear material falling under sub-heading 8536.90 and Boards, panels, consoles, desks, cabinets etc. under sub-heading 8537.00.

2. A show cause notice was issued to the appellants on 22-4-1993 alleging that certain inputs had not been specifically declared and therefore, the credit availed on these items such as Miniature Circuit Breakers (MCB), Switches, Air Circuit Breakers (ACB), Moulded Case Circuit Breakers (MCCB), Relay containers falling under sub-heading 8536.90 and Switch Fuse Units, Distribution Boards, Chargeover Switches falling under Heading 8537.00 was required to be reversed.

The demand was confirmed by the Assistant Collector whose order was upheld by the Collector of Central Excise (Appeals) holding that the detailed declaration was required for the purpose, clearly indicating description of the final product manufactured and the inputs required for the manufacture of the same. Hence this appeal.

3. I have heard Shri M.P. Devnath, learned Advocate who mainly contends with reference to the declaration and annexures thereto (the relevant gate passes covering the items on which credit has been denied) that the description of the excisable goods received as inputs is sufficient for the purpose of enabling the department to ascertain whether these inputs were actually received by the appellants and the minor discrepancies arise from not mentioning the rating or their name of the firm. He submits that it is also well settled by a series of orders of the Tribunal that general description of the goods is sufficient for the purpose of extending credit and in this case, the appellants have not filed a general description but they have also filed a specific declaration of the inputs and therefore, there was no warrant in denying credit.

4. The learned DR Shri Kilaniya, while reiterating the findings of the lower authorities, submits that in respect of items on which credit has been denied, the full particulars regarding the name and type of weighing had not been given in the declaration and therefore, credit has been rightly denied.

5. I have considered the submissions of both the sides. The gate passes in question clearly shows that what was supplied to the appellants was Electrical switchgears, Fusegears and MCB Distribution Boards. There is also no dispute that the Tariff headings enumerated in 57G declaration covered the inputs received by the appellants. It appears that the only dispute relates to non-mention of particulars such as type and rating of switchgears, MCB Distribution Boards etc. The appellants have clearly explained in the Memorandum of appeal that the declaration covered all the inputs received by them and it is not a case of non-declaration but a case of sufficient declaration. The department does not rebut the contention of the appellants that there are only minor discrepancies in the declaration which are not such as to warrant credit being denied to the appellants

particularly when they had been following the requirement by filing the declaration and when there is no dispute about sub-headings of the tariff under which these inputs are classified and when there is no dispute regarding the duty paid nature of the goods and their use in the manufacture of final product.

Having regard to the case law cited by the learned Counsel particularly to the case of Collector of Central Excise v. Triton Valves Ltd. reported in [1993 (65) E.L.T. 289] and to the case of Concord Control v. Collector of Central Excise, New Delhi reported in [1996 (84) E.L.T 329] wherein it has been held that general description of the items was broad enough to cover the inputs received by the appellants and that mere procedural irregularity was not sufficient for denial of credit, I hold that the appellants' declaration filed in terms of Rule 57G was sufficient to cover the inputs in dispute and accordingly set aside the impugned order and allow the appeal.

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