Batliboi and Co. Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-10-1997

Reported in : (1998)(97)ELT307Tri(Mum.)bai

Appellant : Batliboi and Co.

Respondent : Commissioner of Central Excise

Judgement :

1. The jurisdictional Asstt. Commissioner of Central Excise passed an order dated 28-12-1990 disallowing Modvat credit on grinding wheels on the ground that these are fixed on the machinery and did not form part of inputs as it was not, according to the Asstt. Commissioner, used in or in relation to the manufacture of final product. It was found that grinding wheel is used for smoothening the surface of the components manufactured. The Asstt. Commissioner's order was upheld by the Commissioner of Customs & Central Excise (Appeals), Mumbai in the above captioned order.

2. Shri M.H. Patil, the ld. Counsel for the appellants, submits that the Larger Bench of the Tribunal in the case of Union Carbide India Ltd. v. Collector -1996 (86) E.L.T. 613 (Tribunal) construed the meaning of the term 'input' Under Rule 57A as of wide ambit covering materials which are used and are concerned with the manufacturing process. The ld. Counsel submitted that following the ratio, the Larger Bench in the case of Collector of Central Excise, Bolpur v. Durgapur Cement Works -1997 (90) E.L.T. 197 (Tribunal) has held that steel balls vised in ball mill as grinding media is input which can be considered to be used in or at any

rate in relation to the manufacture of the final product.

2. After hearing Shri V.K. Puri, the ld. SDR, we find that the ratio of the Larger Bench decision in the case of Union Carbide India Ltd. supra is directly applicable to the facts of the present case. Grinding wheels are definitely parts of the grinding machines used by the appellants and they have to be considered as inputs Under Rule 57A in the light of the decision of the Larger Bench in the case of Union Carbide India Ltd., where parts of machines have been considered as inputs and cannot be held to be excluded from the definition of input Under Rule 57A. Therefore, we set aside the impugned order and allow the appeal. The appellants will be entitled to consequential relief according to law.