

**Srf Ltd. Vs. Commissioner of Central Excise**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Feb-04-1998

**Reported in :** (1998)(100)ELT68TriDel

**Appellant :** Srf Ltd.

**Respondent :** Commissioner of Central Excise

**Judgement :**

1. This is an application for waiver of pre-deposit of duty of Rs. 1.2 lac. In this case, the benefit of Modvat credit in respect of capital goods, that is storage tanks, is denied to the applicants on the ground that storage tanks as such can neither be called as a 'machinery' nor equipment/apparatus/spare parts of accessories of any capital goods.

Shri R. Nambirajan, Advocate appearing on behalf of the applicants submitted that storage tanks are used for storing of hydrofluoric acid which is corrosive in nature and the hydrofluoric acid is stored in the storage tanks in order to maintain pressure and temperature. He submits that these storage tanks are necessary components of the plant for the manufacture of the final product. He relied upon the decision of the Tribunal in the case of Metrochem Industries v. C.C.E. and Customs, Vadodara reported in 1997 (96) E.L.T. 114 (Tribunal) and submits that in this case measuring tanks used for pumping into it measured quantity of the liquid raw material was held to be necessary component in the plant for the manufacture of final product. He therefore, prays that the application be allowed.

3. In this case, the benefit of Modvat credit on storage tanks is denied. The contention of the applicants is that storage tanks are necessary components in the plant for the manufacture of their final product. The Tribunal in the case of Metrochem Industries v. C.C.E.(supra) held that measuring tanks used for pumping into it measured quantity of the liquid of the raw material are necessary component in the plant for the manufacture of final product. In the present case, there is no such averment these are measuring tanks. The case of the applicant is that these are storage tanks specially designed to store hydrofluoric acid. The case of the applicant is arguable which requires a detailed examination of the use of these storage tanks which will be gone into at the time of final argument. No financial hardship was pleaded by the applicant.

4. After considering the facts and circumstances of the case, I do not find it fit case, for total waiver of duty demand. The applicant is directed to deposit a sum of Rs. 60,000/- (Rupees sixty thousand only) within six weeks from today. On deposit of Rs. 60,000/-, the remaining duty amount is waived and the recovery of the same is stayed during the pendency of the appeal. The applicant is at liberty to deposit the amount in cash or by debiting the amount in RG 23C Part II. The case is adjourned to 30th March, 1998 for reporting compliance.

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