

**Commissioner of Central Excise Vs. Indapur Ssk Ltd.**

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

**Decided On :** Feb-08-1998

**Reported in :** (1999)(106)ELT118Tri(Mum.)bai

**Appellant :** Commissioner of Central Excise

**Respondent :** indapur Ssk Ltd.

**Judgement :**

1. The question for consideration in this appeal is whether phosphoric acid is an input used by the appellant in the manufacture of sugar.

Collector (Appeals), in the impugned order, has held it to be an input.

The appeal contends that commercial sugar can be produced without phosphoric acid.

2. I have heard the departmental representative. Respondent is absent despite notice.

3. Reliance is placed on the Board's circular to the effect that phosphoric acid is not an input, since sugar can be manufactured without it. The question, to my mind, is not whether a commodity can be made without use of another commodity. If a manufacturer chooses to use one article to manufacture another, that first article is an input. No manufacturer would employ processes which were not required, or spend money upon goods in the use of these processes unless the requirements of manufacture compel him to do so. The fact that some

manufacturers may not use phosphoric acid in the manufacture of sugar does not justify denial of credit on the ground that phosphoric acid is not an input even when it is used. That would in effect amount to imposing on a manufacturer a technology and a system of manufacture of the department's choosing. As long as phosphoric acid has been used, it has to be considered as an input; and there is no dispute that it has not been used. I therefore see no reason to interfere.

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