

Commissioner of Central Excise Vs. Prudential Polyweb (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Feb-20-1998

Reported in : (1998)(101)ELT138Tri(Mum.)bai

Appellant : Commissioner of Central Excise

Respondent : Prudential Polyweb (P) Ltd.

Judgement :

1. This is an appeal filed by the department against the decision of Collector (Appeals), Indore whereunder he allowed appeal of the respondent whereby the respondent was granted Modvat credit. The facts appears to be that the respondents were engaged in manufacture of HDPE/Polypropylene woven Sacks/Bags falling within Chapter 39 of the Central Excise Tariff and also availing of Modvat credit. It would appear that for the inputs HDPE on the basis of Bill of Entry rotation No. 1525, dated 22-8-1991 they have claimed Modvat credit. It bore not only the said rotation No. but also particulars of Bill of Lading No. JEBE-05, dated 13-8-1991. In the RG 23A Part I, entry No. 14 stated that the duty paying documents were referred as Bill of Lading No. 05.

The RG 23A Part II state that Bill of Lading No. 5, dated 13-8-1991. It is contended by the department that if the Bill of Entry No. 5862 is the correct number how could they refer to B/L 5/1991.

2. As against this the Id. Counsel for the respondent argues that the stage appears to be only recurring instead of Bill of Entry it has been mentioned as B/L in RG

23A.3. I have seen the relevant Bill of Entry as well as the extract of the RG. 23A. It would appear there has been a clerical inadvertent mistake.

Moreover in the show cause notice ground taken is not non-production of proper duty paying documents. But actually it is found that the document evidencing payment of duty has been produced. But when the reference of proper particulars are reflected in the RG 23A Part I and II there has been some mistakes cropped in. It is true that some mistakes had happened but the essential characteristic of claiming of Modvat credit viz. the duty paying element as well as the utilisation of input in the manufacture of the final product has not been denied.

Therefore, the entire approach of the department to my mind is wrong.

Hence I cannot agree with the contention raised by the Department.

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