

Commissioner of C Ex. Vs. U.G. Sugar Industries Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-17-1998

Reported in : (1998)(102)ELT186TriDel

Appellant : Commissioner of C Ex.

Respondent : U.G. Sugar Industries Ltd.

Judgement :

1. In this appeal from the revenue, the eligibility of the following items for benefit of Modvat credit under Rule 57Q, is questioned : The main thrust of the revenue, as amplified by Shri Y.R. Kilania, Id.DR, is that the scope of the subject rule before its amendment by virtue of Notification 14/96-CE. (N.T.), dated 23-7-1996, was so restricted as not to allow the benefit to these components. I have heard Shri Y.R. Kilania, Id. DR for the Revenue and Shri Bipin Garg, Id. Advocate for the respondents.

2. In the subject rule before the issue of the cited notification, the component spare parts and accessories of the eligible machines were specifically made eligible. There is no doubt that the transmission of shaft of gear box is an integral part of the gear box without which the motive power cannot be transmitted. The same would be true of turbine parts. Therefore, as far as the admissibility of these goods is concerned, the cited notification did not make any significant change.

In other words, two items were eligible for such credit at all times.

3. As regards PVC cables, I find that the Tribunal's judgment, on which reliance was placed by the Id. Commissioner, which went into the issue of the effect of the changes made in the eligibility by. issue of cited notifications, had held that such cables were eligible inputs. The Revenue in the appeal memorandum have stressed upon the interpretation of the machines, machinery, etc. as if the Tribunal did not consider these aspects while arriving at the cited decision.

4. Nor do I find the claim from the Revenue about the judgment in the case of Nova Udyog, having been referred to the jurisdictional High Court under Section 35G of the CEA, 1944 relevant. Following the judgment of the Calcutta High Court in the case of Sancheti Food Products reported in 1993 (67) E.L.T. 248 (Cal.), the Tribunal has held that the mere fact that a reference application has been "made, does not take away the ratio of the concerned judgment. On these considerations, I find no reason to interfere with the impugned order.

The appeal is accordingly, dismissed.

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