Collector of Central Excise Vs. United Vanaspati

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-19-1998

Reported in : (1998)(102)ELT218TriDel

Appellant : Collector of Central Excise

Respondent : United Vanaspati

Judgement :

1. By the captioned appeal, the Revenue have challenged the decision of the ld. Collector (Appeals), Central Excise, Chandigarh in the impugned order.

2. The ld. Collector (Appeals) relying on the judgment of this Tribunal in the case of C.C.E. v. Ganga Vanaspati Ltd. reported in 1990 (50) E.L.T. 456 (Tribunal) held that credit of duty on minor oil should be utilised for payment of duty on vegetable product although the minor oil had not been used as input in the manufacture of the final product.

3. The facts of the case leading to the present appeal are that the respondents procured minor oils, took money credit admissible on this minor oil but utilised it during the period 7-7-1990, 20-11-1990 when none of these minor oils were used in the manufacture of V.P. produced and cleared. The Department therefore, alleged that since during the material period, no minor oil was used in the manufacture of V.P., therefore, money credit taken on the minor oils could not be utilised for clearance of V.P. during the aforesaid period. The Assistant Collector, Central Excise confirmed the demand of duty of Rs. 11,99,1457-. In appeal, the ld.

Collector (Appeals), Central Excise accepted the appeal of the assessees and hence the appeal before us.

4. Shri R.S. Sangia, ld. JDR who was required to appear in this case on behalf of the Revenue sought permission to go to the other Bench which he was permitted in view of the fact that the case was covered by the decision of this Tribunal as indicated in the preceding paragraph.

5. Shri J.P. Kaushik, ld. Advocate appearing for the respondents refers to the decision of this Tribunal relied upon by the Collector, Central Excise (Appeals) and submits the exact wording of the Notification is 'intended to be used' and not actually used. He submits that there is no doubt that minor oils were being used in the manufacture of V.P. by the respondents herein. He refers to various words of the money credit scheme and submits that those aspects were examined at length by the East Regional Bench of this Tribunal and the Tribunal held that the credit taken could be utilised in the V.P. as there was no specific conditions that the V.P. was to contain minor oil. He submits that since the Tribunal had already decided the issue, therefore, the appeal of the Department may be rejected.

6. Heard the submissions of the ld. Counsel, perused the case-law cited and relied upon as also perused the argument of the ld. DR adduced before the East Regional Bench. We find that the position was examined in depth by the East Regional Bench. No other case-law was brought to our notice to show that there was any contradictory judgment on the issue. Following the ratio of the above judgment, we uphold the impugned order and reject the appeal filed by the Revenue.