

**Commissioner of Central Excise Vs. Titawi Sugar Complex**

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

**Decided On :** May-26-1998

**Reported in :** (1998)(102)ELT750TriDel

**Appellant :** Commissioner of Central Excise

**Respondent :** Titawi Sugar Complex

**Judgement :**

1. This appeal from the Revenue challenges the findings of the Collector (Appeals) that Oil seals and Gaskets are capital goods without which the machinery cannot function properly. Shri A.M. Tilak cites the Tribunal judgment (Order No. 646/96-SZB) in the case of Commissioner of Central Excise, Coimbatore v. Velahal Spinning Mills Pvt. Ltd. wherein it is held that for the input to qualify it should specifically satisfy the definition of capital goods as set out in the Explanation to Rule 57Q. He also cites the judgment of the Tribunal in the case of C.C.E., Coimbatore v. Shanmugaraja Spinning Mills Pvt.

Ltd., reported in 1997 (89) E.L.T. 84 (Tribunal) which says that the definition of capital goods under [Rule] 57Q at the relevant time was restrictive. Shri Bipin Garg, Advocate on the other hand relied upon the Single Member judgment in the case of Collector of Central Excise, Meerut v. Uttam Indl. Engg. Pvt. Ltd., reported in 1996 (86) E.L.T. 498 (Tribunal) and also in the case of Collector of Central Excise, Meerut v. Nav Bharat Paper Mills, reported in 1996 (86) E.L.T. 501 (Tribunal).

In these judgments it was held that even where certain goods were specifically named in the Explanation to Rule 57Q with effect from 16-3-1995, there admissibility prior to that date would exist if such goods satisfied the condition of the Explanation before that date also.

Shri Tilak submits that these goods are consumable and when they were brought into the factory it is not certain that they could be used in operating the machinery used in the manufacture of excisable goods.

2. I have carefully considered the rival submissions. There is no doubt that the Gaskets and Oil seals perform a vital function in operating the machinery. The Explanation as it existed at the material time did not specifically refer to the Gaskets and Oil seals but brought under the ambit of the Rule Components, spare parts and the accessories of the machine. This description is vide enough to cover the impugned goods. Therefore, its admissibility need not be disputed. I have taken due cognizance of the learned Departmental Representative that it is not shown that these consumables would be only in that machinery which would be involved in the manufacture of the goods. It is presumed that such goods (sic) only in the manufacturing machinery and not in the machinery used elsewhere such as in the office. I find no infirmity in the Collector's findings. Upholding the same I dismiss the appeal.

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