**Commissioner of Central Excise Vs. Shakti Capacitor Pvt. Ltd.**

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**SooperKanoon Citation** : sooperkanoon.com/13673

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

**Decided On :** Jun-18-1998

**Reported in** : (1999)(112)ELT449Tri(Mum.)bai

**Appellant** : Commissioner of Central Excise

**Respondent** : Shakti Capacitor Pvt. Ltd.

**Judgement** :

1. M/s. Indian Aluminium Co. Ltd. supplied alluminium foils to Bharat Heavy Electricals Ltd. (BHEL), Bhopal. This consignee took credit on the duty paid on the goods but subsequently rejected the consignment.

Therefore, it reversed the credit taken and endorsed the gate passes on which it received the goods to the respondent. Respondent took credit of the duty first paid on the manufacture of the coils. In the order impugned in the appeal, Collector (Appeals) held that credit was correctly taken. Hence this appeal by the Department.

2. I have heard the Departmental Representative and perused the papers.

Respondent requests decision on merits.

3. The ground in the appeal is that since credit has already been taken by BHEL, it should have issued another gate pass for clearance of the goods and that the endorsement on the gate pass issued by the manufacturer of the goods is not sufficient for credit to be taken by the respondent. Strictly speaking this may be

true. However, this is one of those cases where it has to be accepted that mere procedural violation will not stand in the way of taking credit. The effect would be identical if BHEL had instead of endorsing the gate pass issued another gate pass. Solely on minor lapse on the part of BHEL credit should not be denied to the respondent. I therefore decline to interfere.