Commissioner of Central Excise Vs. Decora Ceramics P. Ltd.

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SooperKanoon Citation : sooperkanoon.com/14007

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jul-31-1998

Reported in : (1999)(107)ELT411Tri(Mum.)bai

Appellant : Commissioner of Central Excise

Respondent : Decora Ceramics P. Ltd.

Judgement :

1. In the order impugned in the appeal the Collector (Appeals) overruling the finding of the Assistant Collector has held that "Saggars" are inputs which are used in relation to manufacture of glazed tiles and that, therefore, permission under Rule 57F(2) is required for removing bauxite and other items from the premises of the assessee without payment of duty for manufacture of parts of such ceramic tiles which are to be returned to the assessee for completing the manufacture of "Saggars".

2. We have heard the departmental representative and perused the papers. Respondent is absent and requests decision on written submissions. The ground in appeal is that the "Saggars" are equipment and appliances; they used more than once for carrying the inputs for baking. Hence they are fell within the exclusion clause by Sub-rule (i) of Rule 57A.3. The Assistant Collector has held that parts of Saggars are tools and appliances and therefore, Saggars will not be an input by virtue of the Explanation 1 to Rule 57A they exclude tools and appliances from the category of inputs. Collector (Appeals) has held them to be inputs for the reason that they are used in relation to the manufacture and they are

capable of use two or three times.

4. Now the fact that something cannot be used more than once or twice make necessary it an input which it may suggest it may not be. This part alone is not enough to say that it is not an excluded input. An example is the significance of the fact that Notification 221/86 exempts Saggars from duty is not clear. More significantly we are handicapped by the fact that its exact composition and function of "Saggars is not" indicated in the impugned order or in the appeal itself or by the respondent or appellant. The Collector (Appeals) does not explain why he treated SAGGARS as input and his order is not a speaking order. We, therefore, consider it necessary it should be set aside and he should be asked to pass a speaking order explaining the composition of the product and as to why he considers not to be excluded tool appliance or equipment.

5. Appeal allowed in these terms. Commissioner (Appeals) to decide the appeal afresh according to law.