

**Binani Zinc Ltd. Vs. C.C.E.**

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**SooperKanoon Citation :** [sooperkanoon.com/14121](http://sooperkanoon.com/14121)

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

**Decided On :** Aug-13-1998

**Reported in :** (1998)(104)ELT521TriDel

**Appellant :** Binani Zinc Ltd.

**Respondent :** C.C.E.

**Judgement :**

1. In this case Modvat credit availed on Vanadium Pentoxide and utilised for payment of duty on Zinc has been held to be inadmissible and quantum of credit has been directed to be recovered. The appellants have requested for decision on merits and hence we have heard the Id.D.R. and perused the record.

2. The Appellants filed declaration on 8-3-1990 for availing Modvat credit of duty on inputs under Rule 57A in which they declared Vanadium Pentoxide as inputs "Catalysts" for manufacturing Sulphuric Acid.

However, it was found that they had utilised the credit on the inputs for payment of duty on Zinc. The Assistant Commissioner after examining the process of manufacture and the Technical write up, concluded that Vanadium Pentoxide is utilised as catalyst for the purpose of converting Sulphur dioxide in residue to Sulphuric Acid and was not utilised in or in relation the manufacture of Zinc but only used for converting and processing of Sulphuric Acid to avert atmospheric pollution. His order was upheld by the lower appellate authority. Hence this appeal.

3. We have considered the process of manufacturing as described by the Appellants in the appeal papers. Vanadium pentoxide cannot be considered as an input in the manufacture or in relation to the manufacture of Zinc. It is an input in the manufacture of Sulphuric Acid. The Appellants had, however, taken credit of duty paid on Vanadium pentoxide while clearing the Zinc for which Sulphuric Acid is not to be considered as input. We, therefore, see no reason to interfere with the findings of the Collector (Appeals) and uphold the impugned order and reject the appeal.

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