Derby Textiles Ltd. Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-22-1998

Reported in : (1999)(105)ELT672TriDel

Appellant : Derby Textiles Ltd.

Respondent : Commissioner of Central Excise

Judgement :

1. In this appeal filed by M/s. Derby Textiles Ltd, the matter relates to the availment of Modvat credit on the strength of the invoices which were not pre-authenticated as per the Rules and which did not bear the printed serial numbers. M/s. Derby Textiles Ltd., Jodhpur had received the goods from M/s. Pawan Enterprises, Jodhpur who were not a dealer, and M/s. Pawan Enterprises had received the goods from M/s. Nirup Synchrome Ltd., Bombay. The invoices issued by Nyrup Synchrome Ltd. were not preauthenticated and did not bear the printed serial numbers.

The serial numbers were rubber stamped from a Franking Machine. The adjudicating authority considered that it was a mandatory requirement under Rule 57A(6) of the Central Excise Rules, 1944 and Rule 57 GG(5) of the Rules to maintain the invoices which bear printed serial numbers. On appeal, the Commissioner of Central Excise (Appeals), New Delhi, while giving relief in respect of the invoices in respect of which the show cause notice was issued beyond time, confirmed the view with regard to preauthentication and printing of the serial number on the invoice.

3. I have heard Shri T.A. Arunachalam, JDR and have gone through the facts on record.

4. Under Sub-rule (5) of Rule 57GG, each invoice was required to bear printed serial number running for the whole of the financial year beginning on the 1st April of each year. It was also laid down that only one invoice book of each type was to be used by the registered person for removal of excisable goods at any one time unless otherwise specially permitted by the Collector in writing. This requirement of bearing printed serial number on the invoice has been couched in mandatory terms and no relaxation could be given. Printing is a well-known concept and rubber stamping could not be considered as printing. In the present case, the serial numbers have been rubber-stamped, which did not meet the requirement of the law. The law provided not only for the printing of the serial number but printing in such a manner that there was a running serial number for the whole of the financial year. In the case of rubber stamping, it could not be ensured that there was a running serial number for the whole of the financial year.

5. The requirement of pre-printing of the serial number is different from the marking as provided in Sub-rule (4) of Rule 57GG of the Rules.

The expression used in Sub-rule (5) is not the marking but bearing printed serial number. There are Tribunal decisions that marking of the words "duplicate for transporter" could be by rubber stamping. I do not consider that the same consideration could be extended in respect of the printing of the serial number under Sub-rule (5) Rule 57GG.6. Keeping in view all the relevants facts of the case, I agree with the view taken by the learned Commissioner of Central Excise (Appeals), New Delhi. I do not find any merit in this appeal and the same is rejected. Ordered accordingly.