Eicher Tractor Vs. Commissioner of Central Excise

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SooperKanoon Citation : sooperkanoon.com/14625

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-09-1998

Reported in : (1999)(112)ELT341TriDel

Appellant : Eicher Tractor

Respondent : Commissioner of Central Excise

Judgement :

1. Learned Chartered Accountant, Shri S. Madhavan prays for waiver of pre-deposit and stay of recovery of Rs. 18,37,104/- sought to be denied as Modvat credit taken by the applicants on inputs which are admittedly used exclusively in a final product, namely, tractors which are exempted from payment of duty.

2. Learned Chartered Accountant points out that the Scheme of Rules 57C and 57CC does not call for this retrenchment of credit, as proposed by the lower authorities. The scheme envisages payment of duty on the goods which were otherwise exempted if inputs are used in manufacture of both dutiable and exempted final products. This they have done in terms of provisions of Rule 57CC(1). Therefore, there is no question of retrenchment of credit on inputs used exclusively in exempted tractors.

On the other hand, Revenue's contention is that 57C(1) gives the authority for retrenchment of the said credit because it is not permissible in the first instance at the outset.

3. We are of the view that the question involves interpretation of Rules 57C and 57CC. The case is fairly arguable. Therefore, having regard to the overall facts and circumstances of the case, we direct the applicants to deposit an amount of Rs. 2 lakhs within a period of eight weeks from today. On compliance with the aforesaid direction, the balance amount of recovery shall remain stayed during the pendency of this appeal. Matter to come up for ascertaining compliance on 12-1-1999.