Cce Vs. Sigma Paints Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-17-1999

Reported in : (1999)(84)LC660Tri(Mum.)bai

Judge : J T J.H.

Appellant : Cce

Respondent : Sigma Paints Ltd.

Judgement :
1. The respondents in this case manufacture paints and varnishes.

Certain chemicals received by them as inputs were sent by them to their own unit for manufacture of alkyd resins, an intermediate product which was exempted under a notification. This movement was done under the provisions of Rule 57F(2). The show cause notice alleged that since alkyd resins was fully exempted, the credit taken on the inputs going into its manufacture was not admissible. Before the Addl. Commissioner, the Madras High Court judgement in the case of Ponds (India) Ltd. was cited. It was also claimed that the provisions of Rule 57D(2) covered the situation. The Addl. Commissioner held that the proviso (a) to Rule 57A read with the cited Rule did not make for availment of the benefit. He, therefore, disallowed the credit and confirmed the duty. The assessees then filed an appeal before the Commissioner (Appeals) relying upon the ratio of the Tribunal judgement in the case of Asian Paints (India) Ltd. v. CCE . The Commissioner (Appeals) allowed the' appeal resulting in the present appeal being filed by the revenue.

2. I have heard Shri K.M. Patwari, the ld. DR for the revenue and Shri P.S. Kalve, ld. Consultant for the respondents.

3. Rule 57D stipulates that where during the production of any final goods, some intermediate goods come into existence, the input credit shall not be denied merely because such intermediate product is exempted from duty. I find that the Addl. Commissioner's reliance on proviso (a) to Rule 57A was entirely misplaced. It does not in any way qualify the facility under Rule 57D. The first ground taken in the appeal memorandum is that because the assessees do not have machinery to make the intermediate products, whether the inputs would fall within the meaning of Rule 57A or not. It is a very vague point and cannot be seriously considered.

4. The very situation is covered in the decision of the Tribunal in the case of Shalimar Paints Ltd. v. CCE . The mere fact that such intermediate goods are manufactured under the facility of Rule 57F(2) does not alter the ratio of the judgement.

5. The Madras High Court in the cited judgement in the case of Ponds (India) Ltd. held that input credit on plastic granules was available even when the containers made therefrom is exempted from duty. In the light of the judgement, this appeal does not survive and is dismissed.