

Jay Industries Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-06-1999

Reported in : (1999)(66)ECC168

Judge : N T C.N.B.

Appellant : Jay Industries

Respondent : Commissioner of Central Excise

Judgement :

2. Arguing the appeal, learned Counsel Shri J.P. Kaushik submits that this amount of credit has come to be denied on account of an error of fact in the impugned order. He refers to para 4 of the impugned order and submits that it is clear that the order allows Modvat credit in respect of documents issued by manufacturer's depot. Shri Kaushik refers to the invoices in question and explains that all these invoices have also been issued by the depot of the manufacturer, namely, Godrej and Boyce Manufacturing Co. Ltd. As the credit has been denied on account of error of fact in noting that these invoices are issued by unregistered dealers, he submits that the credit was to be allowed in terms of the impugned order itself.

3. Heard Shri T.A. Arunachalam, learned D.R. for the Revenue who submits that these invoices also appear to be issued by manufacturer's depot only.

4. I have perused the records of the case and have considered the submissions. The denial of credit has taken place on account of a mistaken impression that the

invoices in question were issued by unregistered dealers. The invoices themselves clearly show that they were issued from the depot of the manufacturer. The Order-in-Appeal has allowed credit in respect of invoices issued from the depot. Therefore, the credit in respect of these invoices was also due to the appellant.

Accordingly this appeal itself can be disposed of after waiving pre-deposit. The appeal is allowed with consequential relief to the appellant and the impugned order is set aside, as (already observed earlier in this order) the credit came to be denied on account of mistake of fact that these invoices were issued by unregistered dealers.

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