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Commissioner of C. Ex. Vs. Atlas Paper Mills P. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-10-1999

Reported in : (1999)LC544Tri(Mum.)bai

Appellant : Commissioner of C. Ex.

Respondent : Atlas Paper Mills P. Ltd.

Judgement :

1. By our Order No. 938/98-WZB, dated 25-4-1998, we had dismissed the appeal of the department holding that the felts and wires were inputs within the meaning of Rule 57G of the Central Excise Rules. In holding the same, we had followed the decision of the Larger Bench in Union Carbide India Ltd. v. C.C.E. - 1996 (86) E.L.T. 213. The instant application has been filed for referring a question of law to jurisdiction-al High Court for giving its opinion and the question has been framed in the application mentioning inter alia, whether the Tribunal was right in deciding the issue.

3. During the course of arguments, Shri Ramteke, the ld. DR had invited our attention to the decision of the NRB who had referred a similar question for opinion to Punjab and Haryana High Court in the case of C.C.E., Chandigarh v. Zenith Papers -1997 (95) E.L.T. 670. In the said judgment when we look into we find that there is an order of reference to the Bombay High Court in the case of B.K. Paper Mills - Ref. No.R/1924-25/97-NB, dated 7-2-1997. Hence, following the same, we refer the following question of law : "Whether wire and felt which are used in the machinery for manufacture of paper products are eligible for Modvat credit under

Rule 57A of the Central Excise Rules"

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