

Commissioner of Central Excise Vs. Star Wire (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-11-1999

Reported in : (1999)(65)ECC444

Appellant : Commissioner of Central Excise

Respondent : Star Wire (P) Ltd.

Judgement :

1. The Revenue is aggrieved by the order of the Commissioner of Central Excise (Appeals), New Delhi extending Modvat credit on items such as Refractory bricks, Thinner and other foundry chemicals Stopper Head, P.P. Resin, Ferro Chrome, Grinding Wheels, hot tops etc. We find that the items in question have been held to be eligible for credit by the lower Appellate Authorities, following the ratio of various Tribunal's decisions holding that such items are eligible for Modvat credit.

Commissioner (Appeals) has relied upon a later judgment by a Larger Bench in the case of Ramakrishna Steel Industries v. CCE reported in 1996 (82) E.L.T. 575, Escorts Ltd. v. CCE, Chandigarh -1996 (16) RLT 712 and Union Carbide India v. CCE - 1996 (86) E.L.T. 613.

2. Ld. DR brings out to our notice Special Leave Petition to be filed to the Hon'ble Supreme Court on extension of credit on some of these items and the Civil Appeal has been admitted as seen in 1997 (95) ELT.A226 in the case of Kesari Steels v. Collector - Tribunal's Final Order No. A/808/94-NRB dated 8-9-1994 [1996 (74) E.L.T. 123 (T)]. However, in the absence of any stay of operation Tribunal's order

which had held that the remaining mass etc. were entitled to credit we follow the ratio of the Tribunal's orders cited by the lower Appellate Authority, uphold the order and reject the appeal.

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