Commissioner of Central Excise Vs. Telco Ltd.

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SooperKanoon Citation : sooperkanoon.com/15820

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-13-1999

Reported in : (1999)(66)ECC199

Judge : J T J.H., G Srinivasan

Appellant : Commissioner of Central Excise

Respondent : Telco Ltd.

Judgement :
1. The assessees in this case used certain chemicals in making of moulds and cores which were in turn used for making castings. Since sand moulds were exempted, Modvate credit on such chemicals was ordered to be reversed and penalty was imposed on the assessees. The Collector (Appeals) in his order held that the assessees were not eligible for Modvat credit for such inputs. He however, observed that where the duty was paid on processed sand, then the assessees were eligible for such credit. He directed the Addl. Collector to rework the amount of Modvat to be reversed on this count and set aside the penalty. Against this order, the present appeal has been filed by the revenue.

2. We have heard Shri Ramteke, Ld. JDR for the revenue. The prayer made is that the Collector was wrong in holding that some processed sand was dutiable. It is claimed that even if such sand were dutiable in the absence of a declaration, under Rule 57G, the credit would not be extended. It is claimed not scrutiny or verification by the Assistant Collector if required. On this ground reversal of the

impugned order is claimed.

3. Shri J. Krishnaswamy, Assistant General Manager, was present on behalf of the respondents.Ramkrishna Steel Industries v. CCE has been referred to. In this judgment it has been held that the chemicals used in preparing sand moulds in the process of manufacture of steel castings are admissible inputs since they are used in relations to manufacture of final products. As per paragraph 2 of the Addl. Collector's Order dated 22.4.1994, the charge made in the Show Cause Notice is only on this count. Therefore, as far as the charge in the Show Cause Notice is concerned, the Tribunal's decision is in favour of the assessee.

5. The appeal memorandum is framed in a peculiar manner. It claims that in order to verify the correctness of the contention that some of the sand treated with chemicals was dutiable. The issue is required to be referred to the Asst. Collector. This observation of the Collector (Appeal) could have been verified by the appellate Collector on his own without coming to the Tribunal to seek the permission to do so. This is the only ground made in the appeal memorandum on which we feel that no orders are called for.