Commissioner of C. Ex. Vs. SaThe Biscuits and Chocolates Co.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-13-1999

Reported in : (1999)(66)ECC187

Appellant : Commissioner of C. Ex.

Respondent : SaThe Biscuits and Chocolates Co.

Judgement :

1. This is an appeal by the department against the decision of the Collector of Central Excise & Customs (A), Pune, whereunder, he had held that the respondents would be entitled to the Modvat credit in respect of M.G. Poster paper and printing ink which were used in the manufacture of printing waxed paper which is exempted under Notification No. 217/86.

2. The assessee in this case is the manufacturer of cocoa powder, chocolate and biscuits falling under Chapter Heading 19 of Central Excise Tariff Act, 1985 and were availing of Modvat credit under Rule 57A of the Central Excise Rules in respect of M.G. Poster paper and printing ink. The Assistant Commissioner disallowed the Modvat credit on these inputs on the ground that they were used in the manufacture of printed waxed wrapping papers which were exempted under Notification No. 217/86 and that the Modvat facility was allowed to packing material as an input for final product and not input for another input i.e.

packing material. Against the said decision, an appeal was filed and the Collector (Appeals) by the impugned order following the judgment of the Tribunal in the case of Britannia Industries v. Collector 1993 (67) E.L.T. 980 held that benefit under Rule 57A is available not only for goods used in the manufacture of final products but those used in relation to the final products also.

3. I have considered the grounds of appeal. It has been stated in the grounds of appeal that in view of the admitted fact that the Modvat credit in respect of printing ink was not admissible to the assessee as the printing ink itself is an input for another input ultimately used for packing material. This finding in law goes directly contrary to the Madras High Court judgment in the case of Ponds India Ltd. v. Collector 1993 (63) E.L.T. 3. There also plastic granules were used for purpose of producing packing material. Here the printing ink has been used in printing M.G. Poster paper. The Madras High Court has held that the Modvat credit in respect of the plastic granules is eligible as inputs.

I, therefore, reject the grounds of appeal made by the department and dismiss the same.

4. The cross objection made is in the nature of reply to the grounds of appeal. The same also stands disposed of by this order.