C.C.E. Vs. Niranjan Singh Kartar Singh

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-21-1999

Reported in : (1999)(114)ELT628TriDel

Appellant : C.C.E.

Respondent : Niranjan Singh Kartar Singh

Judgement :

1. Captioned 2 appeals have been filed by the Revenue against the order of the Collector (Appeals) who held that "I have considered the submissions made by the appellants in the memoranda of appeals and also the arguments tendered by the ld. Counsel at the time of personal hearing. The main point which required determination in these appeals is whether the appellants are entitled to avail Modvat credit of duty in excess of Rs. 500/- per MT or Rs. 600/- per MT as restricted by proviso to Notification No. 177/86, dated 1-3-1986 as amended on ship breaking scrap obtained by breaking up of ships, boats and other floating structures. It is observed that the appellants have availed Modvat credit of duty @ Rs. 600/- per MT paid on goods under Heading No. 72.30 or 73.27 and obtained from breaking up of ships, boats and other floating structures imported into India on which the duty liability had not been discharged. As proviso to Notification No.177/86, dated 1-3-1986 do not get attracted in these cases as the restrictions aforesaid apply to ship breaking scrap obtained by breaking up of ships, boats and other floating structures as are manufactured in India and not in the case of ship breaking scrap obtained by breaking up of ships, boats and other floating

structures imported into India. The appellants have, therefore correctly availed Modvat credit of duty in excess of Rs. 500/-." 2. The facts of the case briefly stated are that the respondents are engaged in the manufacture and clearance of steel ingots. 1'hey are availing the facility of Modvat credit of duty paid on the inputs used in the manufacture of final products. The respondents claimed Modvat credit in excess of Rs. 500/-per MT. They submitted that the scrap purchased by them was obtained by breaking up ships, boats and other floating structures imported into India. The Asstt. Collector rejected their contention and held that they were eligible to Modvat credit only to the extent of Rs. 500/-PMT. The respondents herein filed an appeal before the Collector (A). The Collector (A) allowed their appeal.

3. Shri S. Srivastava, ld. JDR submits that the respondents are covered by Notification No. 177/86 which restricted the quantum of credit to Rs. 500/-. He submits that the respondents could not avail the credit in excess of Rs. 500/-PMT. He reiterates the findings of the Asstt.

Collector in the Order-in-Original.

4. Shri R.S. Saini, ld. Consultant submits that in the mean time the Govt. of India had issued a Notification No. 62/90 which inter alia provides that Modvat credit on scrap obtained from breaking up of ships, boats and other floating structures imported on or after the 20th day of March, 1990, on which duty of Customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) has been paid at the rate of Rs. 615 per Light Displacement Tonnage and the additional duty leviable thereon Under Section 3 of the Customs Tariff Act has been paid at the rate of Rs. 600/- per Light Displacement Tonnage. He submits that the gate pass on the strength of which Modvat credit was taken clearly indicated that duty on the goods was paid under Notification No. 62/90, dated 20-3-1990. He submits that thus it was clear that Modvat credit admissible to the respondents, in respect of scrap obtained by breaking up of ships, boats and other floating structures imported into India on or after the 20th day of March, 1990, was Rs. 600/-. In support of his contention, he cites and relies upon the judgment of this Tribunal in the case of Ludhiana Steels Limited [F.O. Nos. 65 to 70/99-B1,

dated 22-1-1999] holding that the materials received by them were obtained by breaking up of ships, boats and other floating structure imported into India were entitled to the credit at the rate of Rs. 600/- PMT and mat the provisions of Notification No. 177/86 are not attracted. He submits that their case is fully covered by the decision of this Tribunal in the case of Ludhiana Steels Limited and prays that the appeal may be rejected.

5. On careful considerations of the submissions made by both sides, perusal of the Notification Nos. 177/86 and 62/90 and the case law cited and relied upon on the subject, we find no merit in the appeals filed by the Revenue. The appeals are, therefore rejected.