

Collector of Central Excise Vs. Premier Poly Film Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-07-1999

Reported in : (1999)(113)ELT192TriDel

Appellant : Collector of Central Excise

Respondent : Premier Poly Film Ltd.

Judgement :

1. The Revenue is aggrieved by the order of the Commissioner (Appeals), Central Excise, Ghaziabad who has held that power cables, electric motors, distribution board, static converters, control panel and centrifugal pumps used in the factory of the respondents herein are capital goods within the meaning of Rule 57Q and hence entitled to Modvat credit.

2. None appears for the respondents; hence we heard Shri H.K. Saran, learned SDR and perused the records.

(i) Power cables : These cables are connected from main distribution panel room as shown in drawing in red mark. These cables are going to various machines which are altogether functioning to enable production of PVC sheeting and film etc. on the main calender machine.

(ii) Electric motor (AC & DC): These motors are used for driving main calender machine and laminator etc. for cooling PVC film sheetings.

(iii) Centrifugal pump : These are used to circulate cold water in various parts of calender and laminator etc. for cooling PVC film sheeting.

(iv) Distribution Board : These are installed in panel room and are connected to different motors through cables to give power for driving the machine used for production purpose.

(v) Static convertor, electronic card, control panel : These are electrical/electronic panel used to provide variable speed of DC motors in main calender for producing required PVC film and sheeting etc.

(vi) Air cooled water/fluid cooler : These are used for air conditioning of DC panel room. These are essentially required for efficient working of DC control panels and motors.

(vii) Screw compressor : These are air compressor providing air for pneumatic operation of various parts of the main calender. Laminator machine etc. used for production purpose.

(viii) In no way any calender machine can work for production purposes of PVC film/sheeting unless supported by DC motors various sizes pump, cables, panel; DG sets and air screw compressor etc.

4. Power cables, distribution board, static converters, electronic card and control panel are in the nature of electrical items which have been held eligible to capital goods credit by the decision of the Larger Bench of the Tribunal in the case of *Jawahar Mills v. Collector of Central Excise* reported in 1999 (108) E.L.T. 47. Centrifugal pump is in the nature of machine and, therefore, covered by clause (A) of the explanation to Rule 57Q as it stood even prior to 16-3-1995.

Air Cooled Water/fluid cooler is used for efficient working of the control panels and motors and is, therefore, an item eligible to capital goods credit. The Department seeks to deny credit on this item on the basis of the judgment of the Tribunal in the case of *Commissioner v. Shanmugaraja Spinning Mills* reported in 1997 (89) E.L.T. 84. However, this decision is no longer a good law in view of the Larger Bench decision in the *Jawahar Mills* case cited supra.

Air compressors have been specifically held to be eligible to credit in view of the decision of the Tribunal in the case of Modern Petrofills v. Collector of Central Excise, Baroda Air compressors (screw) are also entitled to credit, in view of the Tribunal's decision in the case of Dabur (India) Ltd. v. Collector of Central Excise, Meerut 5. In the light of the above decision, and following the ratio of the Tribunal's orders cited supra, we hold that all the items in dispute are entitled to capital goods credit, and we, therefore, uphold the impugned order of the lower appellate authority and reject this appeal.

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