

Vapi Rubber Mills Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-09-1999

Reported in : (1999)(114)ELT65TriDel

Appellant : Vapi Rubber Mills

Respondent : Collector of Central Excise

Judgement :

1. The issue involved in the appeal filed by M/s. Vapi Paper Mills Ltd. is regarding availability of the benefit of Notification No.225/86-C.E., dated 3-4-1986, as amended.

2. Briefly stated the facts are that the Appellants manufacture paper and paper boards and articles made of paper. They availed of set off of the duty paid on the inputs, namely, alum, rosin, etc., under Notification No. 225/86, dated 3-4-1986. A show cause notice dated 22-7-1987 was issued to them for demanding amount of set off availed of by them in excess. The Assistant Collector, under order dated 15-12-1992, confirmed the demand amounting to Rs. 1,05,057.75, holding that the set off of the duty was available only on the quantity consumed in one M.T. of final product and the appellants had utilised the set off in excess. On appeal, the Collector (Appeals) confirmed the order, holding that a simple reading of the Notification revealed that exemption from payment of duty was restricted to the amount of equivalent to the duty already paid on the inputs used; that the exemption would be available instantly to the extent of duty paid on the inputs so used at the time of clearance of the final goods; that the appellants could not avail

the exemption beyond what was prescribed under a Notification.

3. Shri M.P. Devnath, learned Advocate, submitted that there is no stipulation in Notification No. 225/86 that the utilisation of set off should be restricted to the quantum used in the manufacture of the final product; that there is no one to one co-relation between the inputs received and inputs utilised in the manufacture of the final product. He relied upon the decision in the case of Indian Petrochemicals Ltd. v. C.C.E. -1992 (61) E.L.T. 138 (Tribunal) and decision of the Larger Bench in the case of J.K. Synthetics Ltd. v.C.C.E., Jaipur - 1996 (81) E.L.T. 648 (Tribunal) wherein it was held that notification does not require that the quantum of exemption equivalent to the duty paid on particular lot of inputs should be utilised only for the payment of duty on the final products made from that lot of inputs. There is neither an express or implied condition in the Notification to that effect. In other words, exemption from duty for a particular lot of final products is not to be limited to the duty paid on the inputs used in or in relation to their manufacture.

4. Shri Sumit K. Das, learned DR reiterated the findings as contained in the impugned order and submitted that the condition of the notification is that the inputs should be "used in or in relation to the manufacture of the final products", and unless and until the inputs are used in or in relation to the manufacture of the final goods, set off of duty cannot be availed of; that mere purchase of inputs does not entitle the appellants to utilise the set off of duty paid on inputs.

5. We have considered the submissions of both the sides. Notification No. 225/86 as amended by Notification No. 329/86-C.E., dated 27-5-1986 exempts paper or paper board from so much of duty as is equivalent to the duty of excise paid on the inputs specified in the Table appended to the Notification and used in or in relation to the manufacture of the final products. We observe that the Larger Bench of this Tribunal in J.K. Synthetics case, supra, has held that the benefit under Notification No. 225/86 has to be allowed as abatement on the duty payable on the final products without insisting that at every stage of clearance of the final product, the utilisation of credit has to be co-related to the quantum of inputs used in its manufacture. The Larger Bench, however, pointed out that the quantum of exemption available is thus the excise duty paid on the inputs so used. It is

essential for the availment of benefit of notification that the duty paid goods must be used in or in relation to the manufacture of the final goods. If the appellants can satisfy the Department that the goods were used in or in relation to the manufacture of the final goods, specified in the Notification, the benefit of the Notification will be available to them. Following the ratio of decision in J.K. Synthetics case we thus, remand the matter to the Assistant Commissioner with the direction to allow the benefit of Notification No. 225/86 if the appellants satisfy him about the use of the inputs, specified in the notification, in or in relation to the manufacture of the final goods, specified in the Table appended to the Notification. The appellants are directed to submit the evidence, if any, to the Assistant Commissioner within two months of receipt of order. The appeal is allowed by way of remand.

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