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Commissioner of Central Excise Vs. Vasumati Printers

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-11-1999

Reported in : (2000)(115)ELT731Tri(Mum.)bai

Appellant : Commissioner of Central Excise

Respondent : Vasumati Printers

Judgement :

1. Vide show cause notice dated 30-11-1994 Modvat credit taken on six invoices totally amounting to Rs. 48,303/- was sought to be denied on the following allegations :- "Invoice is issued by a person who is not registered with Central Excise authority as required to be registered under rule 57G. Hence, the instant invoice is not valid document for the purpose of taking Modvat credit under rule 57G." 2. It is on record that the dealers who issued the invoices, namely, M/s. Parekh Sales Agency got themselves registered under the said rule on 18-8-1994. A circular issued by the Board Bearing No. 76/76/94-CX, dated 8-11-1994 directed the jurisdictional officers to accept the invoice issued by unregistered dealers also provided such dealers got themselves registered before 31-12-1994. The assessees before the Assistant Collector placed these facts. The Assistant Collector held that the cited circular required that such invoices should show the details as were required to be shown in terms of Notification 15/94, dated 30-3-1994. Since the invoices did not contain this information, he denied the benefit. The Commissioner (Appeals) scrutinized the documents. The invoices were dated between the period 6-7-1994 to 30-7-1994. The Commissioner (Appeals) found

that they contained details of invoices of the manufacturers. The parent invoices issued by the manufacturers were also reproduced by the traders. In view of these details and in view of the fact that the show cause notice did not speak about the details to be shown in the invoice, the Commissioner (Appeals) set aside the lower orders and directed credit to be taken.

Against this order the present appeal has been filed.

3. The claim made in the appeal memorandum is that the cited circular had to be given effect to and had to be applied fully and therefore where the details are not shown which were required by virtue of Notification 15/94, the admissibility could not be established.

4. I have considered the submissions and have also seen the text of Notification 15/94. This notification required the dealers to state in their invoices the details as occurring in the invoice issued by the manufacturers under Rule 52A. It also required the amount of duty to be shown. I find that it has been recorded by the Commissioner (Appeals) in paragraph 4 of his order that these details in their entirety were mentioned in the invoices. On examination of the invoices he found that apart from the details the invoices under Rule 52A were also reproduced therein. T'herefore, all that was required to be shown under Notification 15/94 was shown in the invoices. In this situation the appeal lacks force and is dismissed.

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