

Commissioner of Central Excise Vs. Raja Ram Maize Products

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-16-1999

Reported in : (2000)(118)ELT171TriDel

Appellant : Commissioner of Central Excise

Respondent : Raja Ram Maize Products

Judgement :

1. These are seven appeals filed by Revenue against allowance of Modvat credit on certain items by the Id. Commissioner (Appeals). Since these seven appeals pertained to common items, they were heard together and are being disposed of by this common order.

2. Shri T.A. Arunachalam, Id. DR submits that in the grounds of appeal filed by the Department only three items as follows have been agitated : He submits that Enamelled Winding Wire/Copper Winding Wire are parts of 'Electric Motor'. Electric motor is not a capital good for the purpose of Rule 57Q.He submits that Rotary Units, F.R.B. Sleeves, Shaft, Impeller are also not parts having a nexus to machinery, plant etc. used for production or processing or bringing about any change in the final product and thus he submits that the items are not covered by Rule 57Q.Ld. DR submits that Cylindrical Vertical Tanks are not capital goods as they are used for storage purposes and claimed no role in production or processing or bringing about any change in the final product. In support of his contention he cites the decision of this Tribunal in the case of Bhansali Engg. Polymers Ltd. v. C.C.E., Raipur reported in 1999 (105) E.L.T. 213. He also

submits that the Tribunal in the case of Jindal Polyester v. C.C.E., Meerut reported in 1998 (100) E.L.T. 48 held that storage tanks are general purpose tanks and not covered by Rule 57Q. He submits that in view of the above submissions, the authorities below have wrongly allowed Modvat credit on the above items. He reiterates the findings of the Asstt. Commissioner.

3. Arguing for the respondents Shri A.C. Jain, Id. Counsel submits that Enamelled Winding Wire/Copper Winding Wire are admittedly parts of electric motors. He submits that electric motors are essential for running of any machine which is electrically operated. He submits that in their case electric motors are used for running the plant since electric motors by themselves are machines and are used for running a plant which is in turn used for production of the final product.

Electric motors and their parts are machines for the purpose of Clause (a) of Rule 57Q. He submits that Rotary Units, F.R.B. Sleeves, Shaft, Impeller are undoubtedly parts of machine. He submits, that they are producing Maize products (Dextrose). He submits that this plant and machinery is used in the manufacture of these items used. Since they are parts of machinery, they are covered by Rule 57Q. About Cylindrical Vertical Tanks, Id. Counsel submits that these are storage tanks used for storing the inputs. He submits that these tanks are used in the process of manufacture of the final product. He submits that any machine or part used in the process of manufacture of the final product is capital goods. In support of his contention he cites and relies upon the decision of this Tribunal in the case of Dabur India Ltd. v. C.C.E. reported in 1998(98) E.L.T. 674 and in the case of SRF Ltd. reported in 1999 (106) E.L.T. 317. He submits that the decisions cited by Id. DR are easily distinguishable because in one case the steel tanks were used as a general item and specific use of the item is not indicated. He submits that in their case whereas the particular function of the tank is evident and was held by the lower authorities in the cases cited and relied upon by Id. DR, the function and use of the particular tank is not indicated. He pleads that location of tank and its use in the process of manufacture is essential and since the location and functioning of the tank in the entire plant was not mentioned in the decisions cited and relied upon by Id. DR the facts in the two cases are distinguishable.

4. I have heard the rival submissions. I have also perused the case law and the grounds of appeal. I find that there is a limited agitation restricted to three items as indicated above. The items are Enamelled Winding Wire/Copper Winding Wire in the first place I find in the instant case that the plant is operated only by start of electric motors. Electric motor thus, is an integral part of the machine and makes the plant function. Admittedly Enamelled Winding Wire/Copper Winding Wires are parts of electric motors since electric motors are machines by themselves, parts will be covered by Rule 57Q. Since without electric motor, no production of the Maize products (dextrose) can be done, therefore, the parts are fully covered by Rule 57Q. This view finds support from the Larger Bench decision in the case of Jawahar Mills Ltd. 1999 (108) E.L.T. 47.

Rotary Units, F.R.B. Sleeves, Shaft, Impeller are parts of machines deployed for production of Maize products. Parts of machines are specifically covered under Rule 57Q. Since they are parts, therefore, they will be eligible for Modvat credit.

Cylindrical Vertical Tanks are used for storing the raw material. Since they are used for storing the raw material, they become machines used in the process. The process starts with the bringing of inputs and keeping them in place. Since these vertical tank are used for storing and storing is a part of process, therefore, they are covered for purpose of Modvat under Rule 57Q.5. Having regard to the above discussions, all the seven appeals filed by the Revenue are rejected.

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