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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-18-1999

Reported in : (1999)(114)ELT362TriDel

Appellant : Vindhya Telelinks Ltd.

Respondent : Collector of Central Excise

Judgement :

1. Modvat credit of Rs. 4,43,858/- has been disallowed on DC Boards, DE Motors, PC Board, Ramo Unit, A.C.Voltage Sparktester and other components of testing bridge used for resistance switching matrix and certain electrical equipments such as control panel, and DC and AC motors on the ground that these items do not fall under the category of capital goods under Rule 57Q(1) of the Central Excise Rules. In addition, a penalty of Rs. 10,000/- has been imposed in terms of Rule 173Q.2. We have heard Shri N.R. Khaitan, learned Advocate and Shri Sanjiv Srivastava, learned DR.3. From the use and functions of the items as noted in the impugned order, we can divide them into two categories (1) electrical items used for transmission/supply of power and (2) testing equipments for measuring or checking electrical quantities. The decision of the Larger Bench of the Tribunal in the case of M/s. Jawahar Mills and Ors.

reported in 1999 (108) E.L.T. 47 in which electrical items have been held to be eligible to capital goods credit will cover the electrical items such as DC and AC motors and DC Board, DE Motor and PC Board, Ramo Unit. As for testing equipments the Tribunal has held in the case of M/s. Geep Industrial Syndicate

Ltd. reported in 1996 (88) E.L.T. 753 that testing equipments are capital goods under Rule 57Q and hence entitled to Modvat credit. Therefore, all the items in dispute in the present appeal are to be treated as capital goods entitled to credit and, therefore, we set aside the impugned order and allow the appeal.

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