

Commissioner of Central Excise Vs. Vindhya Tele Links Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-26-1999

Reported in : (1999)(114)ELT347TriDel

Appellant : Commissioner of Central Excise

Respondent : Vindhya Tele Links Ltd.

Judgement :

1. Revenue has filed this appeal agitating the allowance of Modvat credit on capital goods such as "Power Cables, Nut Bolts and Screw, Thermo Couple, Steam Generator and Gear Pump'. Revenue has placed reliance on the terms used in the Explanation under Rule 57Q, especially the definition of "capital goods' for the purpose of Modvat credit. I have heard Shri N. Khaitan, Id. Counsel for the Respondents and Shri Y.R. Kilania, Id. JDR for the Appellants. I have also perused the definition of "capital goods' under Rule 57Q. I have also examined the use of the items agitated against by the Revenue. In so far as Tower Cables' are concerned, I find that this item was discussed at length before the Larger Bench of this Tribunal and this Tribunal in that case held that Tower Cable' was a modvatable item under Rule 57Q.[This decision has been taken in the case of Jawaliar Mills Ltd. reported in 1999 (108) E.L.T. 47].

2. Insofar as 'Nut Bolts and Screws' are concerned, we note that these are no doubt general utility items but the fact remains that these are a part of the machines. Parts of machines are specifically covered as "capital goods' under Rule 57Q.3. Thermo Couple' is used for testing purpose in the insulating line

machines. We have already held that testing and measuring instruments and machines are capital goods for purpose of Modvat. We do not find any reason to disagree with this and therefore, we hold that 'Thermo Couple' being a testing equipment is capital goods for purpose of Modvat.

4. From the records, it is brought to my notice that 'Steam Generator' and 'Gear Pump' were allowed by the Id. Asst. Commissioner, Central Excise while deciding the case. It is not a subject matter of the appeal before the Id. Commissioner (Appeals). It was therefore, contended that these items cannot become a part of Appeal filed by Revenue. I find force in this argument. The Department had not agitated against these two items before the Commissioner (Appeals) and therefore, I agree with the Id. Counsel for the Respondents that they cannot be a part of Appeal filed by the Id. Commissioner (Appeals).

5. Having regard to the above discussions, I uphold the impugned order and reject the Appeal.

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