

Commissioner of Central Excise Vs. Modern Threads (i) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-26-1999

Reported in : (1999)(114)ELT358TriDel

Appellant : Commissioner of Central Excise

Respondent : Modern Threads (i) Ltd.

Judgement :

1. Revenue has disputed the findings of the Commissioner (Appeals), in which the Id. Commissioner (Appeals) allowed Modvat credit as 'capital goods' on (i) PCB Cords and (ii) Electronic Regulator & PVC Flexible Cables. Shri Y.R. Kilania, Id. DR submits that Modvat credit on PCB Cords and Electronic Regulator & PVC Flexible Cables is not admissible in view of CEGAT decision in the case of J.K. Pharmachem Ltd. v. C.C.E. reported in 1997 (21) RLT 868. He also submits that even in the case of Nova Udyog v. Collector of Central Excise, Meerut, the Tribunal allowed reference to High Court regarding modvatibility on 'Wires and Cables'.

He also submits that in the case of Southern Iron & Steel Co. v. C.C.E. Coimbatore, this Tribunal has not allowed the credit on insulated cables and Electrical distribution panels. He, therefore, prays that the Appeal may be allowed.

2. Shri Jitendra Singh, Id. Counsel submits that PCB Cords, Electronic Regulator & PVC Flexible Cables are used for supply of power from main panel to distribution board and for power connection and controlling the power. Thus, these are used in

the process of manufacture under Rule 57Q, as it was before 23-7-1996.

3. He submits that these items are Electrical equipments and that the question of admissibility of Modvat credit under Rule 57Q among other items in the case of Electrical apparatus came before the Larger Bench of this Tribunal in the case of Jawahar Mills Ltd. reported in 1999 (108) E.L.T. 47. He, therefore, submits that Modvat credit as 'capital goods' has rightly been allowed by the Commissioner (Appeals) and prays that the Appeal may be rejected.

4. On careful consideration of the submissions and the use of the items as also the case law cited by both sides, I find that the goods are Electrical equipment and apparatus. I also find that similar items came up for consideration before the Larger Bench of this Tribunal in the case of Jawahar Mills Ltd. cited above, I find that there is a categorical findings of the Tribunal that these items are 'capital goods'. Following the ratio of the decision, I hold that these items are 'capital goods'. In this view of the matter, the impugned order is upheld and the Appeal is rejected.

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