Commissioner of C. Ex. Vs. Rollatainers Ltd.

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SooperKanoon Citation : sooperkanoon.com/16637

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-01-1999

Reported in : (1999)(114)ELT716TriDel

Appellant : Commissioner of C. Ex.

Respondent : Rollatainers Ltd.

Judgement :

1. This is an appeal by the Revenue wherein the issue is whether two items, namely, power cable and hoist are Modvatable as capital goods under Rule 57Q of the Central Excise Rules, 2. The jurisdictional Assistant Commissioner had adjudicated upon the show cause notice issued to the respondents earlier, holding that the aforesaid goods viz. power cable and hoist were not capital goods for the purposes of Rule 57Q of the Central Excise Rules, and had accordingly confirmed the demand of duty raised on the assessee. In the assessee's appeal against the Assistant Commissioner's order, the Commissioner (Appeals), by Order-in-Appeal, dated 29-8-1997, held that Modvat credit is admissible in respect of power cable and hoist under Rule 57Q ibid, following certain decisions of the Tribunal. Hence, the present appeal by the Revenue.

3. The learned JDR, Shri Y.R. Kilania is present for the appellant-Revenue. No representation for the respondents inspite of service of notice of hearing.

4. The learned JDR submits that the question whether power cable is capital goods for the purpose of Modvat benefit under Rule 57Q ibid stands settled with

the decision of the Larger Bench of the Tribunal in the case of jawahar Mills Limited v. C.C.E., Coimbatore [1999 (32) R.L.T 379 (CEGAT-LARGER BENCH)], according to which the said item falls under the category of capital goods for the purpose of Rule 57Q ibid.

The learned JDR fairly concedes that the other item, namely, hoist which falls in the larger category of material-handling equipments would also attract Rule 57Q as capital goods in the light of the decision of the Tribunal in the case of Jawahar Mills Ltd. 5. Thus both the items involved in the present appeal having been held to be 'capital goods' under Rule 57Q of the Central Excise Rules, the Respondents are entitled to avail themselves of credit of the duty paid on the said goods as capital goods under Rule 57Q ibid. Therefore, the Revenue's appeal fails and the same is accordingly dismissed.