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Commissioner of Central Excise Vs. Srf Limited

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-13-1999

Reported in : (2000)(115)ELT169TriDel

Appellant : Commissioner of Central Excise

Respondent : Srf Limited

Advocate for Def. : Shri. J.M. Sharma

Judgement :

1. This appeal arises out of and is directed against the Order-in-Appeal passed by the Commissioner (Appeals), Ghaziabad.

Whether above four items are eligible Capital goods in terms of Rule 57Q to avail Modvat credit is an issue to be considered in this case.

The Commissioner (Appeals) while allowing the appeal filed by the party observed that these are essential for production of the goods and is covered by the term Capital goods and, accordingly, the Modvat is admissible on them. Not being satisfied with the order passed by the Commissioner (Appeals), the department has come before the Tribunal by way of this appeal.

3. This matter has been adjourned for several times awaiting the decision of the Larger Bench. Both sides submit that decision of the Larger Bench is out in the case Jawahar Mills Ltd., reported in 1999 (108) E.L.T. 47.

4. Shri J.M. Sharma appearing for the respondents submits that though serial No. 1 and 4 are nothing but control panel is directly covered by the Larger Bench decision of the Tribunal in the case of Jawahar Mills Ltd., reported in 1999 (108) E.L.T. 47. He submits that not only they control the temperature but without adopting the system by way of control, the process of manufacture could not take place and since it is incidental to the manufacturing process Modvat credit as such cannot be denied. Similar position is with reference to the Ultrasonic Cleaning System and Metallic Bellows which are used not only to clean the system but they are used in the main process to filter and since they take active part in connection with the process of manufacture, Modvat credit, as such, cannot be denied. He also submits that subsequent to the decision of Jawahar Mills Ltd., the Tribunal has been taking the similar view in the cases as reported in 1999 (113) E.L.T.192 (T) and 1999 (33) RLT 971, 973 and 730 respectively.

5. Heard Shri Ramanathan, learned D.R. who reiterated the stand taken by the department.

6. On a careful consideration of the submissions made by both the sides and in the facts and circumstances and in view of the decisions referred to above, I do not find any merit in the appeal filed by the department on the issues involved herein. Accordingly, the appeal filed by the department is hereby dismissed.

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