Navyug Laminates Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-14-1999

Reported in : (1999)(114)ELT444TriDel

Appellant : Navyug Laminates

Respondent : Commissioner of Central Excise

Judgement :

1. The issue involved in the present appeal is dutiability of waste and scrap of plastics under Notification 14/92, dated 1-3-1992 arising out of material on which Modvat credit under Rule 57G of the Central Excise Rules has been availed.

2. The appellants have requested to decide the case on merits in the light of the earlier decision of the Tribunal on the disputed issue. We have heard ld. DR and perused the records.

3. We find that Notification No. 14/92 is a successor to Notification 53/88, dated 1-3-1988 which granted exemption to plastic waste and scrap when arising from goods falling under Chapter 39 or any other Chapter of the Schedule to the CETA, 1985 on which duty leviable thereon has already been paid. This Notification has been considered by the Tribunal and it has been held in the case of Collector of Central Excise, Allahabad v. Hindustan Safety Glass Works Ltd. reported in 1997 (22) RLT 127 that benefit of Notification will be available because taking credit of duty paid does not make the inputs non-duty paid.

Appeals of the same appellant have been allowed by the Final Order No.444/98-C, dated 11-6-1998 and Final Order No. 67/99-D, dated 11-1-1999.

Following the ratio of the above orders, we hold that the appellants are entitled to the benefit of Notification No. 14/92. We set aside the impugned order and allow the appeal.