

Commissioner of Central Excise Vs. Star Paper Mills

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-21-1999

Reported in : (2000)(115)ELT173TriDel

Appellant : Commissioner of Central Excise

Respondent : Star Paper Mills

Judgement :

1. Revenue filed this appeal against the impugned order dated 8-4-1997 passed by the Commissioner of Central Excise (Appeals). In the impugned order, the benefit of Modvat credit, as 'capital goods' is allowed on the following items : 2. Ld. JDR, appearing on behalf of the Revenue, submits that the items, on which the benefit of Modvat credit is allowed, are not covered under the definition of capital goods as provided under Rule 57Q of the Central Excise Rules. He submits that the tube well is used for drawing water from earth, which do not come under the definition of capital goods. In respect of other items, he reiterated the grounds of appeal.

3. Ld. Counsel, appearing on behalf of the respondents, submits that the issue in respect of capital goods, is now decided by the Larger Bench of the Tribunal in the case of Jawahar Mills Ltd. reported in 1999 (108) E.L.T. 47 (Tribunal), 1999 (32) R.L.T. 379. He submits that the Larger Bench of the Tribunal, after considering the scope of capital goods, held that electric items, such as, conductors, fuses, wires and cables and relay are entitled for the benefit of capital goods. In respect of conveyor belt, he submits that the Tribunal in their own case vide Final Order No.

A/490/99-NB (DB), dated 14-6-1999 1999 (113) E.L.T. 933 (Tribunal) held that conveyor belt for coal and pay loader of coal are entitled for the benefit of Modvat credit as capital goods. In respect of other items, he reiterated the findings of the lower authorities.

5. In this case the issue is whether the goods, in dispute, are entitled for benefit of Modvat credit as capital goods or not. The Larger Bench of the Tribunal in the case of Jawahar Mills Ltd. (supra), after considering the scope of capital goods under Rule 57Q of the Central Excise Rules, held that the electric items such as conductors, fuses, wires and cables are entitled for the benefit of Modvat credit as capital goods. In respect of conveyor belts, in respondents' own case vide Final Order No. A/490/99-NB, dated 14-6-1999 1999 (113) E.L.T. 933 (Tribunal) held that conveyor belts are entitled for the benefit of Modvat credit.

6. In view of the above decisions of the Tribunal, the appellants are entitled for the benefit of Modvat credit in respect of electrical items, as mentioned above and also in respect of conveyor belts.

7. In respect of other items, i.e. tubewell, nozzles, etc., the matter is remanded back to the adjudicating authority for deciding the issue afresh after taking into consideration the Larger Bench decision of the Tribunal in the case of Jawahar Mills Ltd. (supra) as the description of the goods and their role in the process of manufacture of the final product, is not clear in the order-in-original or in the impugned order. The appeal is disposed of as indicated above.

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