Dlf Cement Ltd. Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-15-1999

Reported in : (2000)(115)ELT743TriDel

Appellant : Dlf Cement Ltd.

Respondent : Commissioner of Central Excise

Judgement :
1. The items on which credit taken during the month of March 1996 has been disallowed to the appellants who are manufacturers of grey cement, are as follows : 3. HMT, Heavy Vehicle Duty, Rotating Centre with Shank, Follow Rest Dia, Coolant Equipment, splatch Guard for L-45, Tapper Turning Attach and Machine Lamp 2. I have heard Shri M.P. Devnath, learned Advocate and Shri T.A.Arunachalam, learned DR and record my findings hereunder : 1. Surge Arresters : These are used as a component of transformer and its function is to arrest lightning in the atmosphere which can otherwise damage the main transformer. I find that goods falling under sub heading 90.30 and vised in the factory of the manufacturer has been specified as capital goods under clause (i)(d) of the explanation to Rule 57Q(1). The Department does not dispute that this item has been used in the factory of the manufacturer; the ground of denial of credit to this item is that it does not assist in the process of manufacture of final product. In view of the inclusion in Rule 57Q(1)(d)(i) I hold that Surge Arresters are covered by the definition of capital goods and hence eligible to Modvat credit.

2. MS Angles, Columns & Girders : Admittedly, these are items are used in the casing and walls of the cement mill which are therefore, in the nature of fabrication or construction material. Hence applying the ratio of the Tribunal's decision in the case of Vikas Alloys v. C.C.E., Coimbatore reported in 1998 (98) E.L.T. 156 (Tribunal) I uphold the finding of the lower authorities that Modvat credit is not admissible on these items.

3. HMT, Heavy Vehicle Duty, Rotating Centre with Shank etc. are workshop equipments for repair and maintenance in the factory. They cannot be treated as used for producing/processing any goods or bringing about any change in any substance in the final product and hence they are not covered by the definition of capital goods in the explanation to Rule 57G. The contention of the appellants that these items have to be regarded as capital goods since they are used to repair machineries which are directly used in the manufacture of the final product in their plant is not acceptable since these items are not used for producing/processing of the final products.

4. Stationary Battery is installed along with 50 MW captive power plant which generates electricity for producing the clinker and cement. Since the battery is used in the power plant for generation of power i.e. for obtaining DC power supply which in turn is used directly in the manufacture of cement, it is covered by the definition of capital goods and is eligible for Modvat credit in the light of the Tribunal's decision in the case of C.C.E. v. Bhushan Steels In the result, I hold that only Surge Arrestors and Stationary batteries are eligible to capital goods credit.