

Unique Wire Industries Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-29-1999

Reported in : (2000)(115)ELT360TriDel

Appellant : Unique Wire Industries

Respondent : Collector of Central Excise

Judgement :

1. In this appeal the issue involved is whether Modvat credit under Rule 57A is available in absence of specific sub-heading mentioned in the declaration filed under Rule 57G.2. Shri Shiv Das learned Advocate submitted that in the manufacture of their final product winding wire, the appellants are using copper wires of dimensions more than 6 mm and less than 6 mm falling under sub-headings 7408.11 and 7408.19 respectively; that prior to 1988 copper wire of all dimensions were covered under Heading 7405.90 and accordingly they had filed declaration declaring copper wire falling under Heading 7405. He finally submitted that as the inputs have been received and used within the factory in the manufacture of final product the benefit of Modvat credit should not be denied for merely not mentioning of sub-heading 7408.11. He also relied upon Tribunal's decision in the case of Anil Steel Inds. v. C.C.E. [Final Order No.89/97-NB, dated 8-1-1997; 1997 (92) E.L.T. 364 (Tribunal)].

3. Shri M.P. Singh, learned DR submitted that filing of declaration under Rule 57G for the purpose of Modvat credit is mandatory requirement and as the appellants have not mentioned copper wire of dimensions of more than 6 mm falling under

sub-heading 7408.11 the Collector (Appeals) has rightly dismissed me Modvat credit.

4. We have considered the submissions of both the sides. We find that it is not in dispute that the duty paid inputs were received and used in the manufacture of final product i.e. winding wire; that the copper wire of dimensions of more than 6 mm was not mentioned in the revised declaration filed by them in 1988. It is also not in dispute that they have filed declaration in which copper wire was mentioned as one of the inputs. It was held by the Tribunal in the case of Anil Steel Industries Ltd. (supra) that "the difference in width of the strips in question leading to a difference in sub-headings of Chapter 72, according to us is not sufficient to disentitle the appellants to the benefit of Modvat credit which is eligible to them." In this matter also merely not mentioning of sub-heading will not disentitle the appellants from the benefit of Modvat credit. Following the decision referred to above we allow the appeal filed by the appellants.

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