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C.C.E. Vs. Star Paper Mills

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-28-2000

Reported in : (2000)(70)ECC97

Judge : J Balasundaram, S T G.R.

Appellant : C.C.E.

Respondent : Star Paper Mills

Judgement :

1. According to the Revenue which has filed the above application for reference in terms of Section 35G(1) of the Central Excise Act, 1944, the following question of law arises out of the Tribunal's Final Order No. 490/99-NB (DB) dated 14.6.99: Whether Modvat credit can be allowed under Rule 57Q on wires and cables under the provisions of explanation 1(a) to 1(c) of Rule 57Q of Central Excise Rules, 1944 as it existed prior to 16.3.95.

2. On hearing both sides, we find that in the case of jawahar Mills Ltd. and Others reported in 1999 (108) ELT 47, the Larger Bench of the Tribunal has held that wires and cables are eligible to Modvat credit in terms of Rule 57Q of the Central Excise Rules and the Larger Bench has followed the decisions of the Supreme Court in coming to its conclusion. It has relied upon the Supreme Court judgment in the case of Indian Copper Corporation reported in 1965(16) STC 259. Since the eligibility of wires and cables to capital goods credit has been settled by the Larger Bench decision, which in turn is based upon the Supreme Court judgments cited

supra, we hold that there is no question of law requiring reference to the High Court and, therefore, dismiss the reference application.

3. The learned DR's submission that in the case of Nova Steels, the Tribunal has referred the issue of eligibility to Modvat credit on wires and cables, does not advance the case of the Revenue since the reference order in the case of Nova Steels was passed prior to the decision of the Larger Bench in the case of Jawahar Mills.

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