Commissioner of Central Excise Vs. R.N. Gupta and Co.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-01-2000

Reported in : (2000)(120)ELT158TriDel

Appellant : Commissioner of Central Excise

Respondent : R.N. Gupta and Co.

Judgement :

1. The revenue filed this appeal against the order-in-appeal dated 24-7-1999 passed by the Commissioner of Central Excise (Appeals). In the impugned order, the benefit of Modvat credit on electric motor and hydraulic tracer and flat template is allowed as capital goods under Rule 57Q of the Central Excise Rules.

2. Ld. D.R., appearing on behalf of the Revenue, submits that the goods, in question, do not qualify as capital goods from their functional use in terms of Clauses (a) to (c) of the Rule 57Q of the Central Excise Rules having no direct nexus to manufacturing stream in the factory. He submits that the goods, in question, are not covered under the definition of the capital goods as provided under Rule 57Q of the Central Excise Rules. He, further, submits that vide Notification 11/95-CE (NT), dated 16-3-1995 and Notification No. 14/96-CE (NT), dated 23-7-1996, the credit on the goods, in question, was allowed.

Therefore, before issuing of these notifications, the benefit of credit, as capital goods, is not available. He, therefore, prays that the appeal be allowed.

3. Ld. Counsel, appearing on behalf of the respondents, submits that the Tribunal in various decisions - (1) Grasim Cement v. C.C.E.reported in 1997 (96) E.L.T. 354 (Tribunal) and C.C.E. v. Bhushan Steels & Strips Ltd. reported in 1998 (101) E.L.T. 422 (Tribunal) held that electric motors are entitled for the benefit of Modvat credit as capital goods as electric motors are prime movers for a machine necessary for its functioning. In respect of hydraulic tracer and flat template, he submits that these are parts of lathe machines, which are used in the manufacture of final product. He, therefore, prays that the appeal be dismissed.

5. In this case, the benefit of Modvat credit on electric motors, as capital goods, was allowed. The Tribunal in the case of Grasim Cement and in the case of C.C.E. v. Bhushan Steels & Strips Ltd. (supra), allowed the benefit of Modvat credit in respect of electric motors.

Therefore, the electric motors are entitled for the benefit of Modvat credit.

6. In respect of hydraulic tracer model hitrance, in the impugned order, the Commissioner of Central Excise gave a specific finding that these are components of lathe machines and are used for producing the final product. Revenue had not produced any evidence to contradict this finding of fact. Therefore, being parts of lathe machine used for producing the final product, the hydraulic tracer and flat template are entitled for the benefit of Modvat credit as capital goods.

7. In view of the above discussion, I find no infirmity in the impugned order. The appeal filed by the revenue is rejected.