

Flex Industries Limited Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-02-2000

Reported in : (2000)(118)ELT429TriDel

Appellant : Flex Industries Limited

Respondent : Commissioner of Central Excise

Judgement :

1. Applicant filed this application for waiver of pre-deposit of duty amount of Rs. 86,392.00. Learned Counsel submits that the benefit of MODVAT credit on material handling equipment, Lightening Arrester and GI Steel structure was denied. He submits that the Tribunal in the case of Collector of Central Excise, Meerut v. Star Paper Mills Ltd., reported in 1999 (113) E.L.T. 933 (Tribunal) held that material handling equipment is entitled for the benefit of MODVAT credit. He also relies upon the decision of the Tribunal in the case of Sterlite Industries India Ltd. v. Commissioner of Central Excise, Pune, reported in 1998 (102) E.L.T. 281 (Tribunal) 2. In respect of Lightening Arrestor, he submits that this is used to save machinery from the high flow of voltage due to lightening. In respect of GI Steel Structure, he submits that the structure is used to support the machines installed in the plant. He, therefore, prays that the application be allowed.

4. In this case benefit of MODVAT credit is denied on material handling equipment, Lightening Arrestor and GI Steel Structure. The credit of Rs. 60,983/- was denied on material handling equipment. In view of the decisions relied upon by the appellant prima facie, I find force in the arguments of the applicants in

respect of the material handling equipment. In respect of Lightening Arrestor and GI Steel Structure, the contention of the applicant is that these are essential parts of the plant. The case of applicant is arguable and requires a detailed examination of the goods in question and evidence produced by the appellants. Prima facie, I find it is not a fit case for waiver of total duty demand. Taking into facts and circumstances of the case, the applicant is directed to deposit Rs. 20,000/- (Rupees twenty thousand only) within a period of 8 weeks from today. On deposit of Rs. 20,000/-, the deposit of remaining amount of duty is waived and recovery of the same is stayed during the pendency of the appeal. To come up for reporting compliance on 3-4-2000.

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