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Cce Vs. Maihar Cements

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-11-2000

Reported in : (2000)(69)ECC516

Judge : S T G.R., a Unni

Appellant : Cce

Respondent : Maihar Cements

Judgement :

1. This reference application has been submitted by Revenue stating that a point of law arises out of Tribunal's Final Order No.A/646/97-NB dated 6.5.97. The point of law has been formulated "whether Explosives, HDPE bags and chemicals are items eligible for Modvat credit inasmuch as explosives are used in mines which are not a factory for Central Excise purposes and HDPE bags were then classified under Chapter Heading 63.01 which was not specified item for purpose of input under Rule 57A and Chemicals which have no nexus to the production of the goods." 2. We have heard Shri PR. Babu, Ld. DR for the applicant and Shri Sanjay Grover, Ld. Counsel for the respondents.

3. On a careful consideration of the submissions made, we find that the Tribunal has already taken a view about a point of law arising in the case of explosives as they are used not within the premises of a factory is defined for Central Excise purposes. We do not see anything to disagree with the view of the Tribunal. We, therefore, hold that point of law arises insofar as explosives are concerned.

4. Insofar as HDPE bags are concerned, the application is not allowed in view of the fact that the classification of HDPE bags under Chapter Heading 63.01 was not discussed and examined at the time of hearing the appeal. We, therefore, hold that no point of law in respect of HDPE bags arises out of the Tribunal's order and therefore, the reference application for referring HDPE bags is rejected.

5. Insofar as Chemicals are concerned, we note that the chemicals in this, case are Caustic Soda and Bleaching Powder. These two items are used in relation to the manufacture and on careful examination of the submissions made, we note that no point of law arises in respect of these two items and therefore, the application for reference on chemicals is rejected.

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