

Commissioner of Central Excise Vs. Poddar Pigment Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-17-2000

Reported in : (2000)(119)ELT142TriDel

Appellant : Commissioner of Central Excise

Respondent : Poddar Pigment Ltd.

Judgement :

1. This appeal arises out of and is directed against the Order-in-Appeal No. 30(KDT)CE/JPR-I/99, dated 13-7-1999 passed by the Commissioner (Appeals), Customs & Central Excise, Jaipur.
2. Arguing for the Revenue, Shri S.K. Das submitted that Modvat credit is not permissible on two grounds. At the first instance, the party has availed Modvat credit after six months from the date of issue of Bill of Entry and secondly, the party has availed credit based upon reconstructed triplicate copy of the Bill of Entry. He submits that the same is not permissible under Rule 57T(3) or Rule 57G(2) of the Central Excise Rules.
3. Shri K.K. Anand submitted that as regards first issue, it is not in dispute since the Assistant Commissioner has not given any finding on this issue and no appeal has been filed by the Department before the Commissioner (Appeals) on the very issue. As regards second issue, the Commissioner has decided issue in favour of the assessee following the decision of the Tribunal viz., Industrial Cables (I) Ltd. v. C.C.E., Chandigarh, reported in 1997 (21) RLT 570 and Final Order

No.A/1015/97-NB (DB), dated 30-9-1997 in the case of Maharaja International Ltd. v. C.C.E., Jaipur. He also submitted that the Commissioner (Appeals) has observed that the Modvat credit is permissible subject to the condition that the party submits necessary documents etc. which may have been prescribed in the relevant trade notice. He said that in other words, the Assistant Commissioner was supposed to grant credit on the verification of the relevant documents.

4. On a careful consideration of the submissions made by both the sides and in view of the findings given by the Commissioner (Appeals), following the ratio of the decision of the Tribunal on the issue involved herein, I do not find any infirmity in the impugned order.

Accordingly, I uphold the impugned order and dismiss the appeal filed by the department.

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