

Commissioner of C. Ex. Vs. Orient Steel Rerolling Mills

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-03-2000

Reported in : (2000)(119)ELT152TriDel

Appellant : Commissioner of C. Ex.

Respondent : Orient Steel Rerolling Mills

Judgement :

1. The issue relates to the availability of the Modvat credit amounting to Rs. 9,387/-.
2. The respondents took the Modvat credit under Rule 57Q on the air circuit breaker received by them as capital goods. The original authority by his Order, dated 2-5-1997 disallowed the credit on the ground that it is an independent electrical device which is used for breaking of electric current supply. It is stated that being a separate electrical device and fitted to the main electrical panel it has no role in the actual production or manufacturing process of any goods or bringing about any changes in any substances as required by the said rule for an eligible capital goods.
3. The Commissioner (Appeals), Bhopal in his Order, dated 5/15-2-1999 has relied on the decision of the Tribunal in Uttam Industrial Engineering Ltd. -1996 (86) E.L.T. 498 (T) in which it is held that if the goods performed the function of capital goods even prior to the amendment in the definition of the capital goods vide explanation (1)(d)(1) vide notification No. 11/95-C.Ex, dated 16-3-1995, they would

be entitled to Modvat credit despite the facts that it was not specifically mentioned by name as capital goods. He has accordingly held that the Modvat credit on this item would be admissible by the appellants.

4. I have heard Shri A.K. Jain, Id. DR. The respondents vide their letter, dated 17-2-2000 have requested the case to be decided on merits.

5. The Revenue in their written memorandum of appeal and during the course of hearing have reiterated the finding arrived at by the original adjudicating authority.

6. I have carefully considered the submissions made before me. The lower appellate authority has relied on the decision of the CEGAT in the case of Uttam Industrial Engg. Ltd. (Supra). The Id. DR is not disputing the applicability, of the ratio of this decision to the facts of the present case. Therefore following this order of the Tribunal, I hold that the Modvat credit amounting to Rs. 9,386/- on the air circuit breaker in the facts and circumstances of this case is admissible to the respondents. Consequently the Revenue appeal fails and the same is rejected.

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