

Commissioner of Central Excise Vs. L.P. Appliances

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-09-2000

Reported in : (2000)(119)ELT627TriDel

Appellant : Commissioner of Central Excise

Respondent : L.P. Appliances

Judgement :

1. The appellants were engaged in the manufacture of LPG stoves and were availing the facility of Modvat credit on inputs under Rule 57A of the Central Excise Rules during the period of dispute. They took Modvat credit amounting to Rs. 13,113.50 on C.R. Steel Strips (inputs) on the strength of invoice dated 14-12-1995. The credit was taken after filing a declaration on 14-9-1995, wherein the inputs were described as 'steel sheets'. The jurisdictional Assistant Commissioner disallowed the above credit on the ground that there was no proper Modvat declaration for the purpose of such credit. In the appeal filed by the aggrieved party against the order of the Assistant Commissioner, the Commissioner (Appeals) found that there was substantial compliance with the Modvat rules for the purpose of availment of Modvat credit by the appellants.

The Commissioner (Appeal) following the ratio of the decision of the Tribunal in the case of CCE v. Rattan Ind. (P) Ltd. -1996 (83) E.L.T.573 (T) held that the declaration of the goods as 'steel sheets' was in substantial compliance with the requirements of Rule 57G in respect of the goods in question, namely C.R. Steel Strips, which were nothing but steel sheets cut to size. The lower appellate

authority also observed that the party had, by way of abundant caution, filed a revised declaration on 19-6-1996, along with an application for condonation of delay, for the purpose of availment of the above credit. On the basis of these findings, the Commissioner (Appeals) set aside the order of the lower authority and allowed the above Modvat credit taken by the party.

2. The present appeal by the Department against the above order of the Commissioner (Appeals) is on the ground that the lower authorities had no power to condone the delay of filing of Modvat declarations for any period beyond six months and therefore the credit is liable to be disallowed for want of Modvat declaration. I have carefully examined the orders of both the lower authorities and the grounds of the Department's appeal. I have also heard Ld. JDR, Sh. Y.R. Kilania for the appellants and Ld. Consultant Sh. M.K. Jain for the respondents, I have also perused the decision of the Tribunal cited by the Ld.

Consultant. I find that the Tribunal's decision in the case of Chamundi Steel Re-Rolling Mills v. CCE, Bangalore 1996 (81) E.L.T. 563 and also the decision in the case of CCE v. Rattan Ind. Pvt. Ltd. (Supra) are applicable to the issue involved in the present appeal. There is no dispute that the inputs in question were received and utilised by the respondents in the manufacture of their final products. There is no dispute regarding payment of duty on such goods, either. The only dispute is with regard to Modvat declaration. The earlier declaration dated 14-9-1995 declared the inputs are 'steel sheets'. There is no dispute of the fact that the goods in question were strips made out of such steel sheets. There is also a revised declaration filed by the party on 19-6-1996. The delay in the filing of such revised declaration (declaring the goods as C.R. Steel Strips) is of a few days only. In the circumstances, the requirement of declaration has to be held to have been substantially complied with by the respondents. Accordingly, the respondents should be held to be entitled to the Modvat credit, following the ratio of the decisions of the Tribunal in the aforesaid cases. Therefore, I do not find any merit in the Department's appeal and I reject the same.