

Commissioner of C. Ex. Vs. A.C.C. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-10-2000

Reported in : (2000)(119)ELT82TriDel

Appellant : Commissioner of C. Ex.

Respondent : A.C.C. Ltd.

Judgement :

1. The revenue filed this appeal against the Order-in-Appeal dated 14-5-1999 whereby the benefit of Modvat credit in respect of switch gear panel, protection chain for tyre and logic controller, was allowed as capital goods under Rule 57Q of the Central Excise Rules. Ld. DR, appearing on behalf of the revenue, submits that these goods are not capital goods as provided under Rule 57Q of the Central Excise Rules.

He submits that switch gear panels is a part of generator set of 66 KV and at the relevant time, the Modvat credit is admissible only on generator sets, exceeding 75 KV. In respect of protection chain for tyre, he submits that these chains are used with the dumpers which is a handling and unloading machinery and logic controller is an instrument used for controlling the operation timing for proper evacuation of material and is an electric equipment which is essential for electric power control or distribution of electricity only. He, therefore, prays that the appeal be allowed.

2. Ld. Counsel, appearing on behalf of the respondents, submits that the goods, in question, are capital goods. He submits that in the case of Kanoria Chemicals v C.C.E. reported in 1997 (95) E.L.T. 301 (T) and the Larger Bench of the Tribunal in the case of Jawahar Mills Ltd. v C.C.E. reported in 1999 (108) E.L.T. 47 held that electric switches are entitled for the benefit of Modvat credit. In respect of logic controllers, he relies upon the decision of the Tribunal in the case of Jindal Polymers v. C.C.E. reported in 1998 (103) E.L.T. 569 (T). He also relies upon the decision of the Tribunal in the case of Mansurpur Sugar Mills reported in 1996 (87) E.L.T. 91 (T) in respect of protection chain for tyre. He submits that as the goods, in question, are already held to be entitled for the benefit of Modvat credit, there is no force in the appeal filed by the revenue.

4. In this case, the revenue challenged the Modvat credit on switch gear panels, protection chain for tyre and logic controller. The Tribunal in the case of Kanoria Chemicals (supra) held that switches and panel boards are entitled for the benefit of Modvat credit as they are used as component/spare parts of plant. Therefore, the respondents are entitled for the benefit of Modvat credit in respect of switch gear panels. In respect of protection chain for tyres, the revenue is not disputing that these are used as accessories to the dumpers, which are used for transport of material from one place to another and the Tribunal in the case of Mansurpur Sugar Mills (supra), held that the material handling equipment is entitled for the benefit of Modvat credit. As these protection chains are used as accessory to the material handling equipment, these are entitled for the benefit of Modvat credit. The Tribunal in the case of Jindal Polymers (supra) held that measuring instruments, such as, process control instrument, are entitled for the benefit of Modvat credit. Logic controller is an instrument for controlling operation timing, delay or sequence of air blasters for proper evacuation. Hence, they are entitled for the benefit of Modvat credit.

5. In view of the above decisions of the Tribunal, I find no infirmity in the impugned order. The appeal filed by the revenue is rejected.