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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-05-2000

Reported in : (2000)(120)ELT144TriDel

Appellant : Hind Murti Industries

Respondent : Commissioner of C. Ex.

Judgement :

1. This appeal arises out of and is directed against the order-in-appeal dated 11-10-1999 passed by the Commissioner of Customs & Central Excise (Appeals), Chandigarh.
2. Arguing for the appellant, Shri K.K. Anand, Id. Advocate submitted that the issue relates to Modvat credit. Modvat credit has been disallowed by the department on the ground that they have availed credit on the strength of invoice which do not contain particulars as required under Notification No. 33/94-C.E. (NT) dated 4-7-1994 and the particulars supplied during adjudication proceedings are not correlatable as the impugned invoices do not contain corresponding particulars.
3. The Adjudicating authority/Assistant Commissioner has disallowed the Modvat credit to the extent of Rs. 1,20,511.53 in addition to imposing penalty of Rs. 85,000/-. On an appeal filed by the party and considering the facts and circumstances the Commissioner (Appeals) has observed that such an approach on the part of the lower authority is totally unjustified. On examining of the invoices he observed that Modvat credit in respect of invoices mentioned at Sl. No. 1 to 12

(referred to in the order passed by the Asst. Commissioner) merits to be admissible. As regards amount of Rs. 2059.20 he observed that credit has been taken on the strength of unspecified document which is not permissible. It was argued on behalf of the assessee that the Commissioner (Appeals) is not right in disallowing the credit taken to the extent of Rs. 2059.20. Furthermore, penalty was unwarranted.

5. I have carefully considered the matter. I find that the Commissioner (Appeals) was right in disallowing the Modvat credit even to the extent of Rs. 2059/- since the party has taken credit on the strength of unspecified invoices. As regards penalty, I find that he should have reduced the penalty amount commensurate with the duty amount. In the facts and circumstances, I find that substantial reduction is called for with reference to the quantum of penalty. Accordingly, penalty amount is reduced to Rs. 2000/- as against Rs. 20,000/-. But for this modification the impugned order is upheld and accordingly, appeal is disposed of in the above terms.

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