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Commissioner of Central Excise Vs. Govind Rubber Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-13-2000

Reported in : (2000)(120)ELT142TriDel

Appellant : Commissioner of Central Excise

Respondent : Govind Rubber Ltd.

Judgement :

1. These are two appeals filed by the Revenue against the impugned order dated 11-10-1999 passed by the Commissioner (Appeals), Central Excise, Chandigarh. The department has come in appeal on two grounds (1) The appellant had not declared the input to avail credit and (2) Notional credit was availed at a later stage than the date of taking normal credit.

2. Arguing for the Revenue, Shri A.K. Jain, ld. JDR filing of declaration is a must to avail Modvat credit as it was held in the case of P.R. Conductors v. CCE, Jaipur reported in 1996 (81) E.L.T. 336 as well as in the case of Asian Paints Ltd. v. CCE reported in 1997 (93) E.L.T. 198. Accordingly, Commissioner (Appeals) was not right in accepting the contention of the party in availing the credit without filing declaration. Similarly, he argued that notional credit was not permissible.

3. Shri J.P. Kaushik, ld. Advocate appearing for the respondent submitted that it is admitted fact that Central Excise duty was paid by the appellant on behalf of the job workers and appellant could not file declaration as it was properly analysed by the Commissioner (Appeals) in para 3 of his order. Para 3 of the impugned order

is as under :- "3. I have considered the matter. I find that as per Show Cause notices and other record, it is an admitted fact that the CE duty was paid by the appellants on behalf of the job workers who manufactured the intermediate product i.e. bead wire rings from the bear wire (an input declared by the appellants) in the premises of the appellants and that this CE duty on the bead wire rings was paid at a much later date than the date of manufacture as the job workers were not traceable. In these facts and circumstances, there arises no occasion to declare the bead wire rings (an intermediate product) in their much earlier declaration dated 1-7-1992. Substantive benefit cannot, therefore, be denied to them as the inputs on which duty was paid have been used in the manufacture of final product.

Credit taken on P.P. is, however, not allowed. It is a settled law that higher notional credit is allowable at a later date".

4. Further, he said that the issue involved in this case has already been covered and concluded by the Tribunal in the case of CCE, Surat v.Fusion Polymers Ltd. 1999 (33) RLT 489 as well as in the case of Express Rubber Products v. CCE, Baroda 1998 (24) RLT 482. As regards the second issue, he submitted that this issue also is covered by the ratio of the decision of the Tribunal in the case of CCE, Mumbai v.Hindustan Lever Ltd. reported in 1998 (26) RLT 715 wherein it was held that notional credit is permissible subsequent to the receipt of the inputs in the factory.

5. In the facts and circumstances, in view of the case law referred to by the Counsel and in view of the finding given by the Commissioner (Appeals), I do not find any infirmity in the impugned order on both the issues. Accordingly, appeals are dismissed.

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