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Commissioner of C. Ex. Vs. Multimelt Steels (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-19-2000

Reported in : (2000)(120)ELT500TriDel

Appellant : Commissioner of C. Ex.

Respondent : Multimelt Steels (P) Ltd.

Judgement :

1. The respondents availed Modvat credit amounting to Rs. 77,686/- on grinding wheels during the period from February, 1997 to September, 1997. This credit was availed under Rule 57A. The Assistant Commissioner, Central Excise Division, Sangrur disallowed this credit vide his Order dated 22-4-1999 contending that during the relevant period, the grinding wheels were specified as capital goods under Notification No. 25/96-C.E., (N.T.), dated 31-8-1996. On appeal the Commissioner (Appeals), Chandigarh in his order dated 29-11-1999 observed that it was only a procedural mistake that the party filed a declaration under Rule 57G instead of Rule 57T and accordingly allowed the appeal setting aside the order of the original authority.

2. The Revenue is in appeal against the aforesaid order of Commissioner (Appeals). I have heard Shri J. Singh, DR for the Revenue and Shri R.S.Saini, Consultant for the respondents. The ld. Consultant has brought to my notice the Order of the Tribunal in the case of Fag Precision Bearing Ltd. v. Commr. of Central Excise and Customs, Vadodara -1999 (105) E.L.T. 413 (Tribunal) in which Tribunal has allowed the Modvat credit on grinding wheels and Honining stick

under Rule 57A. It is contended in the Revenue appeal that the provisions of Rule 57G and Rule 57T are entirely different; that as per Rule 571(2) the party cannot claim depreciation under the Income-tax Act or as revenue expenditure under any provisions of the said Act in respect of that part of the value of capital goods which represent the amount of specified duty paid on such capital goods but there is no such provision in Rule 57G if the party takes credit of capital goods under this rule. On careful consideration of the submissions made by the Revenue, I find this contention entirely irrelevent to the issue under consideration. It seems that party in view of the law laid by the Tribunal and prevailing practice was under bona fide impression that Mod-vat credit on grinding wheels was available under Rule 57A and therefore, they availed credit on this item accordingly. It is not in dispute, rather it is admitted that the Modvat credit on grinding wheels was indeed admissible as capital goods under the stated notification of the Govt. of India. In view of these facts if the credit was to be expunged from the account maintained under Rule 57G, the same would have to be credited in the account maintained under Rule 57T. Therefore, the entire exercise in my view is revenue neutral.

Consequently, I find no force in the appeal of the Deptt. and the same is dismissed.

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