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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-05-2000

Reported in : (2000)(120)ELT384TriDel

Appellant : Abilities India Pistons and Rings

Respondent : Commissioner of C. Ex.

Judgement :

1. The appellants are engaged in the manufacture of Bare Piston & Piston assembly falling under Chapters 84 and 87 of the Schedule to the Central Excise Tariff Act. They are availing Modvat facility on capital goods under Rule 57Q of the Central Excise Rules. In February 1997, they took Modvat credit of the duty paid on exhaust fans amounting to Rs. 1697.00 treating the goods as capital goods under Rule 57Q. The said goods had been received in their factory in August and November 1996. The adjudicating authority and lower appellate authority disallowed the credit so taken by the party, on the ground that the exhaust fans had no use in the process of manufacture of final products in the appellants' factory and on the further ground that the goods stood excluded from the category of capital goods. The present appeal is against the order of the Commissioner (Appeals).

2. I have carefully examined the orders of the lower authorities and have heard Id. Advocate Shri Rajesh Chhibber for the appellants and Id.JDR Shri Y.R. Kilania for the Revenue. It is not disputed before me that the exhaust fans in question fell under Chapter heading 84.14 of the Schedule to the Central Excise Tariff Act. The

principal ground stated in the memorandum of appeal, and reiterated by advocate, is that exhaust fans falling under the said heading 84.14 were not included in the excluded category of capital goods stated under Clause (aa) of Explanation-1 to Rule 57Q(1) of the Central Excise Rules. I have examined the cited provisions of Rule 57Q(1) and I find that exhaust fans do not figure in the list of goods stated in the excluded category of capital goods under Clause (aa) ibid. It is also not disputed that the goods in question were used by the appellants in their factory.

Therefore the principal requirement of Rule 57Q(1) stands fulfilled.

The exhaust fans qualified to be capital goods by virtue of Clause (aa) of Explanation-1 to Rule 57Q(1) as this rule stood during the period of dispute.

3. In the light of the above observations and findings, the impugned order requires to be set aside and I do so. The appeal is allowed.

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