Commr. of Central Excise Vs. Chemical and Dyestuff Inds.

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SooperKanoon Citation : sooperkanoon.com/18441

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jun-08-2000

Reported in : (2000)(71)ECC550

Judge : J T J.H.

Appellant : Commr. of Central Excise

Respondent : Chemical and Dyestuff Inds.

Judgement :

1. This application is from Revenue seeking stay of the operation of the order in so far as it relates to the credit taken on invoice issued by M/s. Shri Ram Chemicals, Mumbai. On perusal of the issue, it was thought proper to take the appeal itself for disposal. I have heard Shri Choubey for the department and have seen the case file.

2. The show cause notice dated 30-12-94 refers to invoice dated 7-6-94 issued by M/s. Shri Ram Chemicals, Bombay. The show cause notice did not spell out the exact ground for denial. The Asstt. Commissioner denied the credit on the following ground: As regards the invoice issued by M/s. Shri Ram Chemicals, Bombay, the said assessee has produced that zerox copy of the dealer and on scrutiny, I find that the C. Ex. registration certificate is issued on 20-3-1995 whereas the Central Board of Excise and Customs issued a Circular No. 76/76/94-C. Ex. dt. 6-11-1994 in which it was clarified that the commercial invoices issued by the dealers/traders prior to the registration will be accepted as a valid document

by the Asstt. Collector up to 31-12-1994 therefore I find the invoices issued by M/s. Shri Ram Chemicals, Bombay are invalid documents for the purpose of availing Modvat credit.

3. The Commissioner in his order allowed the credit on the following observation: As regards the denial of Modvat credit on the invoices on the ground that the dealers were not registered or were registered in 1995, I find that the invoices under dispute have been issued prior to 4-7-94 and therefore it is not material to see whether the dealer is registered Under Rule 174 of the CER, 44 or not. The credit is admissible to the appellants whatever the same has been denied on this ground.

4. In the appeal memorandum it is once again claimed that the dealer was not registered before 31-12-94. In the cross-objection, the assessee have placed on record invoice dated 7-6-94 where the registration number of Shri Ram Chemicals is given. The claim made is that the registration number was subsequently changed due to some circular of the department.

5. I have observed that the show cause notice did not make it clear as to why the credit was sought to be denied. Even then, the respondents had showed that the dealers were registered at the material time. The appeal from the revenue fails and is dismissed.