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Multitech Auto Ltd. Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-16-2000

Reported in : (2001)(130)ELT683TriDel

Appellant : Multitech Auto Ltd.

Respondent : Collector of Central Excise

Judgement :

1. In this case, credit of Rs 17,900/- has been disallowed to the appellants who are manufacturers of motor vehicle parts falling under Chapter 87 of the Central Excise Tariff and further differential duty of Rs. 19,430.77 has been confirmed against them.

2. We have heard Shri T.K. Srivastava, learned Advocate, and Shri R.K.Sharma, learned SDR.3. The ground for denial of credit of Rs 17,900/- on the capital goods is that the goods were received on 10-8-1996 while the declaration under Rule 57 T was filed on 12-8-1996 i.e. after receipt of the capital goods. We agree with the appellants that the delay of two days in filing the declaration cannot be a ground for denial of credit as the credit was availed only after filing of the declaration and the appellants have also requested for condonation of the very short delay in filing the declaration. Hence, we hold that the appellants are eligible to the above-mentioned amount and set aside the denial of the same.

4. The differential duty demand arises on the ground of contravention of the provisions of Rule 57F(1)(ii) according to which the goods on which Modvat credit

has been taken can be removed as such on payment of duty not less than the amount credited. In this case, the appellants cleared 52738 items of motor vehicle parts and nuts, bolts, screws valued at Rs. 3,99,163.08 to M/s. TELCO @ 5% of the total duty amounting to Rs. 19,958.15 instead of duty of Rs. 38,861.54, resulting in short levy of Rs. 19,430.77. The appellants' contention that they did not remove the motor vehicle parts as such, but removed finished products after carrying out the process of manufacture of chamferring, punching, levelling, etc. on semifinished goods received by them is not tenable, since the very description of the goods received by the appellants is nuts, bolts and screws which shows that they are complete finished goods in themselves. We, therefore, agree with the Revenue that the appellants cleared inputs as such as on payment of duty of an amount less than the amount credited, resulting in contravention of the provisions of Rule 57F(1)(ii). We, therefore, confirm the differential duty demand of Rs. 19,430.77. Penalty of Rs. 3,000/- is also justifiable in view of the above-mentioned contravention.

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