Commissioner of Central Excise Vs. Baij Nath Ashrafi Lal

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-04-2000

Reported in : (2000)(121)ELT794TriDel

Appellant : Commissioner of Central Excise

Respondent : Baij Nath Ashrafi Lal

Judgement :

1. The respondents in this appeal were engaged in the manufacture of excisable goods. They took Modvat credit of Rs. 1,22,225.20 on certain inputs on the strength of cash memos issued by the manufacturers of those goods namely the Indian Oil Corporation (IOC) Ltd. The jurisdictional Assistant Commissioner disallowed the Modvat credit on the ground that the cash memos did not indicate whether they were "duplicate copies for transporter" and on the further ground that the documents did not contain necessary information as prescribed under Notification No. 23/95-C.E. (N.T.) dated 30-5-1995. He, further, confirmed the demand of duty and imposed a penalty of Rs. 10,000.00 on the respondents. The appeal filed against the order of the Assistant Commissioner was allowed by the Commissioner (Appeals). Hence the present appeal by the Revenue.

2. Carefully examined the impugned order and connected records. Heard both sides. Ld. SDR Shri M.D. Singh has reiterated the grounds of the appeal and has prayed for setting aside the impugned order. Ld.

Advocate Shri K.K. Anand for the respondents has defended the impugned order and has further submitted that there is no challenge against acceptance of the IOC's cash memos as document in lieu of invoice issued under Rule 52A of the Central Excise Rules. He has further submitted that the respondents had produced a certificate from the IOC before the adjudicating authority, which certified to the effect that the cash memos had been issued as "duplicate copies" for the purpose of availment of Modvat credit. He has also submitted that the question whether the cash memos contained necessary information as required under the Notification aforesaid has also not been raised in the Revenue's appeal. Ld. Advocate has, therefore, prayed for rejecting the appeal.

3. I have carefully examined the rival submissions. The main argument of ld. SDR is that the cash memos issued by IOC did not indicate as to whether they were "duplicate copies" intended for availment of Modvat credit and that the certificate issued by them was not produced at the time of filing of RT 12 returns for the relevant period. These submissions of ld. DR, however, are not reflected in the memorandum of appeal. Moreover, the authority of IOC to issue such a certificate has also not been challenged in the present appeal. Therefore, having regard to the cash memos coupled with the certificate issued by M/s.

IOC to the effect that such memos had in fact been issued as "duplicate copies" for the purpose of availment of Modvat credit, it has to be held that the said cash memos satisfied the requirements of Rules 52A and 57G of the Central Excise Rules for the purpose of availment of Modvat credit. Since there is no other issue involved in this appeal, I find the above issue in favour of the respondents and accordingly reject the appeal.