

**Commissioner of Central Excise Vs. H.E.G. Ltd.**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Nov-10-2000

**Reported in :** (2001)(127)ELT121TriDel

**Appellant :** Commissioner of Central Excise

**Respondent :** H.E.G. Ltd.

**Judgement :**

1. This is an appeal filed by the Revenue. I find that the issue involved in this case has been properly analysed by the Commissioner (Appeals) as can be seen from his finding portion. Issue relates to Modvat credit. Modvat credit has been denied and ordered to be debited on the ground that input on which credit has been taken under Rule 57A of the Central Excise Rules, were destroyed by fire before the manufacturing operation started.

2. On the other hand, the Commissioner (Appeals) has categorically held that manufacturing operation has already been commenced and destruction by fire took place at second stage namely Blow Room, whereas the first stage involved the blending of 2 different fibres. Finding portion of the order passed by the Commissioner (Appeals) is as under : - "I have gone through the case records. There is considerable merit in the submissions made by the appellant. Reliance was placed by them specially on the Tribunal's decision in the case of Asmaco Plastic Industries (Supra). The finding of the Asstt. Commissioner when the goods were destroyed by fire before manufacturing operation started is factually incorrect as borne out by the order itself. In the instant case, it has been noted that

manufacturing operations had already been commenced and destruction by fire took place at second stage namely Blow Room, whereas the first stage involved the blending of 2 different fibres. Consequently, the impugned order is set aside."

3. Since the issue involved in this case has been properly analysed by the Commissioner (Appeals) in the impugned order, I do not find any substance in the appeal filed by the department and in the result appeal is dismissed.

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