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J.C.T. Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-15-2000

Reported in : (2001)(76)ECC698

Judge : A T V.K.

Appellant : J.C.T. Ltd.

Respondent : Cce

Judgement :

1. The issue involved in the appeal, filed by M/s. J.C.T. Ltd. is whether Modvat Credit under Rule 57A of the Central Excise Rules is available in respect of Rustop and Survo System-68.

2. Shri Jitendra Singh, learned Advocate, submitted that the appellants manufacture Steel wires out of Wire Rod; that Rustop is an anti-rust material and is used for lubricating the steel wires so that they do not catch rust; that this is a part of manufacturing process only; that Survo system 68 is used in wire drawing machines; that without applying Survo system-68, the production of steel wires is not possible. He relied upon the decision in the case of Addisons and Co, Ltd. v. CCE 1990 (48) ELT 280 (T), wherein modvat credit was allowed in respect of anti-rust and anti-corrosion oil applied on finished tools. He also relied upon the decision in the case of CCE v. Dwarkanath Steel Strips Ltd. , wherein Modvat Credit was allowed in respect of resulted DW used for lubrication of the final product of steel strips, holding that the same is directly used in the manufacture of

final product. Finally, he relied upon the decision of the Larger Bench of the Tribunal in the case of CCE Meerut v. Modi Rubber Ltd. wherein it was held that unless the machinery is lubricated with the lubricants, heat will be generated on account of mechanical friction between the working surfaces of the machinery leading to adverse consequence affecting the process of manufacture and these facts would suffice to hold that lubrication of machines and machinery is essential for their working, for the smooth process of manufacture of final products.

3. Countering the arguments, Shri A.K. Jain, learned DR, submitted that the Larger Bench decision in Modi Rubber case, supra, is not applicable to the facts of the present matter as the appellants are applying lubricant on the input and not on the wire drawing machines. He, further, submitted that the other material rustop is used only after the wire has been manufactured and as such it has nothing to do with the process of manufacture and accordingly modvat credit is not available.

4. I have considered the submissions of both the sides. Rule 57A of the Central Excise Rules provides for availment of credit of the duty paid on inputs if the same are used in or in relation to the manufacture of the final products. The product Rustop is used to prevent rusting of the steel wires manufactured by the appellants. The steel wires are put into the market only after application of anti-rust material and, therefore, it cannot be said that it is not used in relation to manufacture of the final products of the Appellants. This view is squarely covered by the decision in the case of Addison Co., supra, wherein a reference was made to the decision of the Supreme Court in Star Paper Mills Ltd. v. CCE in which it was held that the term 'process incidental or ancillary' to the manufacture of a product will embrace the process which is required to be carried out to put the product in the marketable form. Accordingly rustop is a product which is an eligible input under Rule 57A. Survo System-68 is also used in or in relation to the manufacture of steel wires as it helps in smooth running of wire rods in the wire drawing machines. The learned DR has mentioned that it is applied on the wire rod itself which goes to show that survo system-68 is used in or in relation to the manufacture of the final product. In view of this the appeal filed by the Appellant is allowed.

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