C.C.E., Patna Vs. M/S Bihar Caustic and Chemicals Ltd.

C.C.E., Patna Vs. M/S Bihar Caustic and Chemicals Ltd.

SooperKanoon Citation : sooperkanoon.com/22145

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Calcutta

Decided On : Apr-16-2001

Appellant : C.C.E., Patna

Respondent : M/S Bihar Caustic and Chemicals Ltd.

Judgement :

1. The issue involved in the present appeal of the Revenue if as regards the admissibility of modvat credit in respect M.S.Nuts and Bolts and PVC Sieve.

2. We have heard both sides duly represented by Shri V.K. Chaturvedi, learned SDR for the Revenue and Shri S.K. Bagharia, learned Advocate for the respondent.

3. We find that the issue as regards the modvat credit in respect of Nuts and Bolts had already been covered by the earlier decision of the Tribunal when an appeal filed by the Revenue against the same respondent was dismissed vide Order No.A-1007/Cal/99 dated 17.8.99. As such, following the ratio of the earlier order we confirm the order of the Commissioner (Appeals) allowing the modvat credit in respect of Nuts and Bolts.

4. As regards the credit in respect of PVC Sieve is concerned it is seen that the same is a filtering element. It is installed in the brine filter equipment machine at the respondent's factory. It is a part/component of the said equipment /machine and facilittes screening of brine which is a necessary part of the process of manufacture.Brine filter equipment machine is covered by Heading No.84.19 and

accordingly, its parts/accessories/components were clearly covered by the definition of capital goods.

5. Our attention had also been drawn by Shri S.K. Bagaria, learned Advocate to the Board's Circular datd 2.12.96 clarifying that parts and components need for be covered by the Chapter mentioned under Rule 57Q defining the capital goods. Clause (d) of Explanation 1 to Rule 57Q defines parts, spares and accessories do specified items from (a) to (c) as capital goods.Inasmuch as the PV Sieves in question are parts do brine filter equipment which is covered by heading 84.19 which against is a specified heading covered by the definition of capital goods. We do not find any justification for not allowing modvat credit in respect of PV sieves. In view of the foregoing, no merits are found in the revenue's ahead and the same is accordingly rejected.