Cce, Chandigarh Vs. Vardhman Polytex

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-17-2001

Appellant : Cce, Chandigarh

Respondent : Vardhman Polytex

Judgement :

1. The respondents are the manufacturers of cotton yarn falling under Sub-Heading 5203.00. They inter alia availed the modvat credit totally amounting to Rs.36,298.95 on spares of humidifier and PVC mist eliminators as parts of humidifier plants. They availed the modvat credit on these items as capital goods under Rule 57Q of the Central Excise Rules, 1944. The Assistant Commissioner of Central Excise, Jalandhar Division vide his order dated 23.1.98 denied the modvat credit of the above amount and confirmed the demand of the same on them.

2. On appeal, the Commissioner (Appeals), Chandigarh vide his order dated 27.8.99 allowed the appeal of the party be setting aside the order passed by the original authority.

3. The Revenue are in appeal against the above order of the Commissioner (Appeals). I have heard Sh. A.K. Jain, NDR for the appellants and Sh. Vishal Bansal, C.A. for the respondents. It ils contended in the Revenue appeal that the credit is availed on the humidifier and PVC mist eliminators as parts of humidifier plant. It is contended that the humidifier plant helps in maintaining certain level of humidity to get the yarn of the a particular quality but that by itself does not mean that it can be considered equipment for production, processing or bringing about

any change in substance. Hence it is contended that the spares for these machineries are not eligible for movat credit. I have considered these submissions.It is observed that the Larger Bench of the CEGAT in the case of CCE, Indor, Vs. Surya Roshni [2001 (128) ELT 293 (T-LB) have held that in terms of clause (b) to sub-rule (1) of Rule 57Q, the only condition that is to be satisfied for this clause to come into play is that components spare of parts and accessories must be of machines, machinery, plant, equipment, apparatus, tools or appliances unused in one of the functions mentioned in clause (a). In view of these findings in the decision of the Larger Bench of the CEGAT, it is considered appropriate that the matter should go back to the original authority for de novo examination of the proposition under consideration whether the spares for these machineries would be eligible for the purpose of availing the modvat credit as capital goods under Rule 57Q Accordingly, the order appealed against is set aside and the matter remanded to the original authority for de novo consideration in the light of the above observations. The respondents shall be affording reasonable opportunity of hearing before taking a final view in the matter.