

Flex Engineering Vs. C.C.E. Meerut

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-02-2001

Appellant : Flex Engineering

Respondent : C.C.E. Meerut

Judgement :

1. The above appeal arises out of the order of the Commissioner (Appeals) who has disallowed total modvat credit of Rs.1,49,502/- availed during the months of April and May 1994 to the appellants are manufacturers of Packaging and printing Machines of Chapter 84 of the Central Excise Tariff. Appellants are contesting denial of amount of Rs.1,47,901/- only, as balance amount of Rs. 1,601/- already stands reversed by them.

2. I have heard Shri Kailash Chandra, Chartered Accountant and Shri Swatantra Kumar, Ld. DR and perused and records. My findings are recorded here under: i. Modvat credit of Rs. 73,681/- availed on Printed Plastic Film/Printed Paper Poly used for testing the packaging machines is not admissible, in view of the Tribunal's judgement in their own case reported in 1998 (102) ELT 387 in para-2.

ii. Credit of Rs. 74,220/- availed on gate pass endorsed after 1.4.94 is admissible to the appellants in the light of the judgement of the Hon'ble Gujrat High Court in the case of CCE Ahmedabad vs Gujrat Medcraft Pvt. Ltd 2001 (42) RLT 475 (guj) where in High Court has answered question raised in reference application holding that there is nothing in the language of the Central Excise Rules that Stantiate gate pass issued before 1.4.94 were also required to be endorsed before 1.4.94.

The credit of Rs.74,220/- has been denied in this case on the ground that gate passes were not endorsed prior to 1.4.94 but subsequently.

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