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Leather and Trim Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-25-2001

Appellant : Leather and Trim

Respondent : Commissioner of Central Excise

Judgement :

1. Appeal taken up for disposal with consent of both sides, after waiving deposit.

2. The appeal is against the order of the Commissioner (Appeals) holding that the appellant was not entitled to take modvat credit of the duty paid on seats for automobile which it cleared and returned after re-precessing, the seating having been found to be defective or substandard. The reason advanced by the Commissioner (Appeals) for denial of the credit is that the appellant did not file declaration, under Rule 57G showing the defective seats manufactured by it to be inputs. He says that the declaration under Rule 57G filed in the division office did not show these to be inputs.

3. Counsel for the appellant cites before me a declaration filed under Rule 57G on 18.1.1998 showing rejected automobile seats to be inputs.

The show cause notice has been issued for credit taken from April to July, 1998. Ordinarily I would have accepted correctness of this declaration and decided the case. However, in the light of the specific finding of the Commissioner (Appeals) that the declaration that he called from the division office did not show rejected seats as inputs I am reluctant to do so. I am of the view that this matter may be re-

examined by him. It is possible that the declaration dated 18.1.1998 has not been brought to his notice.

4. Accordingly I allow this appeal and set aside the impugned order.

The Commissioner (Appeals) shall give the appellant a reasonable opportunity of being heard on the question as to whether the returned seats were declared as inputs under Rule 57G pass order in accordance with law.

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