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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jun-22-2001

Appellant : Commissioner of Central Excise,

Respondent : M/S Arco Industries

Judgement :

1. In this case the respondent was carrying on the business of manufacturing railway parts falling under chapter 85. The question involved is regarding the availment of modvat credit. In the impugned order the Commissioner (Appeals) in paragraph 4 thereof has held as follows:- "4. The impugned order and the submissions have been considered by me carefully. The allegation of invoice not containing the printed Sr.No. has not been mentioned in the show cause notice. It is observed from the invoice that it contains a Sr.No.63 which has been stamped. The expression `print' includes stamping as well as typing.

Moreover, the dealer before issuing the invoice is required to indicate the Sr.No. of the modvatable invoices that are likely to be issued in a financial year to the jurisdictional Superintendent.Since the stamping of the number on the invoice also amounts to printing and that there is no evidence that the said dealer did not communicate the printed number to the jurisdictional Assistant Commissioner, the denial of the modvat credit only on the ground that the invoice does not contain the printed Sr.No. is not in order when the transporter copy of the invoice is produced for defacing subsequently. In the premises the impugned order is set aside and the appeal is allowed with consequential relief if any." 2. The grounds state that

the respondent had not produced statutory documents whereas paragraph 4 of the impugned order specifically states that the invoice has been seen by the Commissioner (Appeals). Therefore the ground taken by the department is wrong. The second ground taken is invoice does not bear prince serial number. If what is stated in ground No.1 is correct namely statutory document has not been produced, how could there be any production of any invoice as envisaged under ground No.2. The entire approach of the department in filing the appeal is misconceived according to me. The reasoning contained in paragraph 4 of the impugned order is perfectly correct. I do not wish to disagree with the same. Appeal is dismissed.

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