

Commissioner of Central Excise, Vs. Blast Carboblocks

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-09-2001

Appellant : Commissioner of Central Excise,

Respondent : Blast Carboblocks

Judgement :

1. The department's appeal questions the finding of the Commissioner (Appeals) that the benefit of Rule 57H could not be extended to the inputs brought in by the respondent, for the reason that they were not available for verification and had already been utilised in the manufacture of finished goods cleared on payment of duty.
2. The ground in the appeal is that at the relevant time Rule 57H did not permit credit to be taken of the duty paid on the inputs used in the manufacture of final product. It is contended that this clause was omitted by notification 20/89 dated 5.5.1989.
3. While the departmental representative repeats this argument, it is difficult to comprehend Rule 57H, even as it stood later, provided that, notwithstanding anything contained in Rule 57G, the Assistant Collector may allow credit of the duty paid on inputs received by the manufacturer immediately before obtaining the dated acknowledgement of the declaration under that rule if he is satisfied that they were lying in stock, or received in the factory on or after filing a declaration under Rule 57G. The result of the amendment made on 5.5.1989 was to omit the second clause in Rule 57H(i), that the inputs are used in the manufacture of final

products, which are cleared from the factory on or after 1.3.1987.

4. Even in the absence of the second clause, the respondent would be entitled to credit. There is no dispute that the inputs were received in its factory after it filed a declaration under Rule 57G. That, at any rate, is not the reason advanced for denying the credit. Presumably the second clause was deleted because it was unnecessary, having outlived its usefulness. Any final product which is cleared in 1990 would necessarily be cleared on or after 1.3.1987 and the second condition was therefore unnecessary. Its omission therefore has no effect upon the respondent's right to take credit. We see no ground to interfere.

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