Commissioner of Central Excise Vs. Soosree Plastics Industries (P)

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SooperKanoon Citation : sooperkanoon.com/24939

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Calcutta

Decided On : Aug-10-2001

Reported in : (2002)(149)ELT658Tri(Kol.)kata

Appellant : Commissioner of Central Excise

Respondent : Soosree Plastics Industries (P)

Judgement :

1. The Revenue has filed the present appeal being aggrieved with the order passed by Commissioner (Appeals) vide which she has set aside the order of the Asstt.Commissioner denying them the benefit of modvat credit of Rs.55,004.00 (rupees fifty five thousand and four) and has imposed a personal penalty of Rs.20,000/-(rupees twenty thousand) on the respondents.

2. The said credit of duty was denied by the Asst.Commissioner on the ground that the same has been availed on the basis of a gate pass which was endorsed to the appellants. He has further observed that since the said gate pass has already been endorsed five times and the endorsement to the respondents was for the sixth time the same cannot be considered to be a proper modvatable document.

3. As against the above Commissioner(Appeals) has observed that the gate pass in question was not endorsed, but the endorsements were made at the back of the said gate pass to show as to how part quantities of the goods covered by the said gate pass were distributed to various customers under the cover of subsidiary gate pass also shows the signatures of the Superintendent, Central Excise & Customs,

Cuttock.

This is more as a record of dispersion of the inputs covered by the said gate pass.

4. I have heard Shri V.K.Chaturvedi, ld.SDR and Shri M.Kanungo along with Shri S.Sathpathy, ld.adv.s for the respondents. I have also perused the gate pass in question. It has been rightly observed by the Commissioner(Appeals) that the sad writings at the back of the gate pass cannot be called as endorsements to different persons. As explained by the ld.adv. for the respondents, Orissa State Industrial Corpn. received the inputs in question to the extent of 10 M.T.. From its depot it further soled the products to different customers.

Whenever a part quantity is sold, the subsidiary gate pass is issued and an endorsement is made at the back of the gate pass in question.

Inasmuch as the balance remaining quantity of 1.9 M.T. and 2.9 M.T. was sold to the respondents, the gate pass it self was endorsed in their favour instead of issuing the subsidiary gate pass. In these circumstances I find no infirmity in the order passed byu the Commissioner(Appeals). The appeal filed by the Revenue is rejected.