Devidayal Electronic and Wire Ltd. Vs. Commissioner of Cen. Excise,

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SooperKanoon Citation : sooperkanoon.com/25123

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-23-2001

Appellant : Devidayal Electronic and Wire Ltd.

Respondent : Commissioner of Cen. Excise,

Judgement :

1. The appellants requested for adjournment. However, the issue having been settled in law, I proceed to decide the appeal on perusal of the contentions made in the appeal memorandum and also those made by Shri Sarkar appearing for the Revenue.

2. The appellants are engaged in the manufacture of wires. Certain chemicals were used by them for pickling raw materials, for lubricating wires, for washing of the lubrication, for providing protection, for annealing and such uses in certain process. Due declarations were filed by them under Rule 57G. The specific use of these products was also informed to the department vide letter dated 19.9.88. Show cause notice dated 8.1.93 was issued seeking recovery of credit availed of on these products during the period 9.1.88 to May, 1991. After hearing the assessees, the Commissioner passed orders confirming recovery of Rs. 2,20,476.12 and imposing penalty of Rs. 50,000/-. Hence, the appeal.

3. The actual use of the various chemicals which has been narrated by the appellants before the Commissioner and in the appeal memorandum also leave no doubt about the fact that each of the chemicals has been used in the conversion of basic raw materials into final products. In their judgment in the case of Wheels

India Ltd vs. CCE, Madras [1994(69)E.L.T.71], the Tribunal held that cleaning and degreasing being essential for production of final products, chemicals used in the process were eligible inputs. Such chemicals used not only in the production of the final goods but also in the manufacturing plant have been held to be eligible inputs under Rule 57A in the Tribunals judgment in the case of JCT Ltd.[2001(129)ELT 147. The same view was held in another judgment reported in 1998(98)ELT 507. The chemicals used for cleaning of glass bottles to be used for bottling of aerated water has been held as eligible inputs in the judgment in the case of VBC Industries Ltd.[1997(92)ELT 374. In terms of these judgments, the denial of the credit is not maintainable.

4. On the aspect of limitation also in view of the declaration filed, there was not cause for the Revenue to allege suppression etc.

5. Thus on merits as well as on limitation, the appeal succeeds and is allowed with consequential benefit, if any.