Commissioner of Central Excise, Vs. Mayurs Steels P. Ltd. and S.B.

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SooperKanoon Citation : sooperkanoon.com/25124

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-23-2001

Appellant : Commissioner of Central Excise,

Respondent : Mayurs Steels P. Ltd. and S.B.

Judgement :
1. These two appeals filed by the Revenue involve same point of law and, are therefore, taken up together for disposal. Shri Sarkar appeared for Revenue. The respondents in appeal No. E/1495/96-Mum were represented by Shri B.Y. Naik. The respondents in appeal No.E/2140/96-Mum requested for adjournment. The issues having been well settled by earlier judgment of the Tribunal, the appeals are taken up for disposal vide this single order.

2. In both the cases, modvat credit was taken by the assessee on the strength of Gate Passes issued before 1.4.94 but endorsed thereafter and the credit was taken before 30.6.94. In allowing the credit, the Commissioner relied upon the following judgments: (1) Moosa Haji Patrawala Pvt. Ltd. vs. CCE Bombay.Chaphekar Engg.P.Ltd. vs. CCE, Pune 3. In the appeal memorandum in both the cases, the only point made is that the department had not accepted these judgment of the Tribunal and have filed reference application against these judgments.

4. Similar arguments had been dealt with by the Tribunal in a number of cases where a number of Appellate Authority had adopted the ratio of these two judgments. It was held by the Tribunal that the mere fact that the reference

application was made did not take away the ratio of the cited judgments. In holding so, the Tribunal had relied upon the judgment of the Calcutta High Court in the case of Sancheti Foods. This has been set out in the Single Member judgment reported in [1999(112)ELT 969.] 5. Following the ratio of these judgments, the appeals from the Revenue are dismissed.