Devidayal Electronic and Wires Ltd. Vs. Commissioner of Central Excise,

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SooperKanoon Citation : sooperkanoon.com/25125

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-23-2001

Appellant : Devidayal Electronic and Wires Ltd.

Respondent : Commissioner of Central 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 manufacture of wires. Certain lubricating preparations were used by them in such manufacture. These were duly declared by them and vide a letter dated 19.9.88, the specific functions of each lubricant preparation were declared to the range officer. Show cause notice dated 6.1.93 was issued seeking reversal of the modvat credit taken on these inputs from 91.88 to 28.11.90. After hearing the assessees, the Commissioner passed the impugned order disallowing the credit, confirming recovery of Rs. 1,62,791.07 and imposing a penalty of Rs. 25,000/-. Hence, the appeal.

3. Before the Commissioner and in the appeal memorandum, it is claimed that the preparations are used at the time of drawing. It is claimed that if these are not used, the wire would break. The Commissioner has not accepted this logic holding that the inputs were not used in the process of manufacture. He had also dismissed the plea on limitation.

Hence the appeal.Commissioner of Central Excise vs Devidayal Aluminium Ind.(P) Ltd.[1998(102)ELT 199] such lubricant used in the manufacture of rolled products was held to be eligible inputs. The benefit of this judgment is thus available to the appellants. I also find that in view of the very clear information given as early as in September, 1998, the charge of suppression could not be raised against the appellants. The appeal succeeds both on merits and on limitation and is allowed with consequential benefit, if any.