Commissioner of Central Excise, Vs. Alkyl Amines Chemicals

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Sep-20-2001

Appellant : Commissioner of Central Excise,

Respondent : Alkyl Amines Chemicals

Judgement :

2. Appeal taken up for disposal with the consent of both sides after waiving deposit.

3. The respondent to this appeal received, from time to time, consignments of denatorium saccharide. It took modvat credit of the duty paid on these goods. It thereafter sent them to manufacturers of denatured alcohol for use in such manufacture. Notice issued to it proposed denial of the credit on the ground that denatured alcohol was exempted from duty and the respondent not used that product. The Assistant Commissioner confirmed the proposal in the notice.

4. The assessee appealed that order. The Commissioner (Appeals) accepted one of the contentions that was raised before him, that, in accordance with the provisions of Sub-rule (2) of Rule 57F, it reversed the credit that it took of the duty paid on the chemical when it sent it out of its factory. He therefore allowed the appeal and set aside the impugned order. Hence this appeal by the Commissioner.

5. In his appeal, the Commissioner does not dispute the finding of the Commissioner (Appeals), and merely repeats that the assessee does not use the

product, but supplies it to other manufacturers of denatured alcohol. It is also contended that the assessee has not followed the procedure contained in Sub-rules (4), (6) and (8) of Rule 57F. I do not see the relevance of this contention. These rules would apply if the input were subjected to other processes, which are specified in those rules. If the law permits, as it does in Sub-rules (2) and (3), the inputs to be cleared for home consumption, on payment of appropriate duty, and payment of duty equal to the duty availed of, the respondent was entitled to do so. I therefore do not find any reason for interference.