

Commissioner of Central Excise Vs. Ahmedabad Packaging Industries

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Sep-28-2001

Appellant : Commissioner of Central Excise

Respondent : Ahmedabad Packaging Industries

Judgement :

1. The Revenue is aggrieved by the extension of modvat credit availed by the Respondents herein on the strength of Bills of Entry bearing two endorsements. Credit was sought to be denied on the ground that bill of entry endorsed more than one was not valid duty paying document. The Assistant Commissioner disallowed, credit however Commissioner (Appeals) extended the benefit on the basis of decision of the Tribunal in the context of endorsed gate passes. Hence these appeals.

2. On hearing both sides and noting that in a long line of decisions the Tribunal has held that credit is admissible on the strength of endorsed Bill of Entry and noting that no further objection arises in the notice or in the order of the Assistant Commissioner, I hold that credit has been rightly extended by the lower appellate authority and the further objection of the Ld.DR that the interest of Revenue have to be safeguarded by ensuring that credit has not been taken on the same goods by more than one person and that the original importer has not sought and obtained refund of duty paid on the imported items, I find not only refund was not obtained, this objection is not raised at any prior stage. Also the respondent had satisfied that they have not availed modvat credit on the inputs imported by them and sold to

the manufacturer.

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