

Balkrishna Industries Ltd. Vs. Commissioner of Central Excise,

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-31-2001

Reported in : (2002)(148)ELT954Tri(Mum.)bai

Appellant : Balkrishna Industries Ltd.

Respondent : Commissioner of Central Excise,

Judgement :

1. The appellants had taken credit on "Synthetic Resin Polyvinyl Alchohol" falling under Chapter 39. The declared input was classifiable under Chapter 38. Holding that the input was not declared, credit was got reversed and the later claim for refund of the credit reversed was also denied. Appellants rely upon Larger Bench judgment reported in 2000/121/ELT 227 (KAMAKHYA STEELS (P) LTD.). On perusal, I find that it does not relate to the issues on hand. I do not find merit in the claim that what was reversed was deposit of duty and therefore, was entitled to refund [(2001) (132) ELT480 (Tribunal)].

2. I, however, find that the following case becomes precedent for this appeal.

3. The Tribunal of the order reported in 1996-83 ELT (641) (Mukesh Engineering Industries) held that where input was not specifically declared, but where that input had nexus with the declared input, MODVAT was allowable. The second relevant judgment is in the case of Delta Factors Ltd. 1996 84(ELT) 151. In this case, the declaration was made of "Plastic Tubes", but the input "Flexible Tube" was held as permissible for such benefit.

4. On the strength of these two judgments, I allow this appeal with consequential relief.

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