

Excellent Engineering Co. Vs. Commissioner of Central Excise,

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Nov-02-2001

Reported in : (2002)(140)ELT126Tri(Mum.)bai

Appellant : Excellent Engineering Co.

Respondent : Commissioner of Central Excise,

Judgement :

1. Appeal admitted and with consent of both sides taken up for disposal.
 2. The question for consideration in this appeal is the liability to modvat credit of the duty paid on "Metaquench 42, "Koolkut oil 40" and "Rustop". The credit has been denied on the ground that these are not essential for manufacture of the final product.
 3. In the affidavit affirmed on 1.11.2000 by the partner of the appellant, the use of these substances has been explained. Metaquench 42 is stated to be used as a quench oil used in tempering metal.
- Koolkut 40, it is stated to be used to prevent rust. Rustop-173 is also applied in order to ensure the products that the appellant manufacturer, ball bearings and roller bearings, are not attacked by rust. In the manufacture of the parts of ball bearings and roller bearing, Metaquench 40, a quenching oil would require for cutting and tempering of the machines for which quenching oil is used. Since it is essential that ball bearings are kept rust and corrosion free; as otherwise they

would lose the precise parameters for which they are engineered and become unsuitable for use, the Koolkut and Rustop are used. The conclusion of the Commissioner that it could have been manufactured without using these goods completely ignores the technology. The appellant was therefore entitled to credit. The penalty imposed on the appellant is accordingly set aside.

4. The counsel for the appellant does not press the liability for recovery of Rs. 2404.82 denied on the ground that it was contained in an invoice issued by an unregistered supplier.

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