

Cce Vs. Comet Tapes Pvt. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jan-09-2002

Reported in : (2002)(102)LC883Tri(Mum.)bai

Judge : G Srinivasan

Appellant : Cce

Respondent : Comet Tapes Pvt. Ltd.

Judgement :

1. This is an appeal filed by the Department against the decision of the Commissioner (Appeals), Mumbai-III. In view of the order is as granting modvat credit under Rule 57Q in respect of Tanks used for storing coal and mixture of adhesive material.

2. In this case, the respondent assessee is manufacturing B.O.P.P.Tapes for manufacturing the final product. The assessee has to store mixture of the emulsion before producing the final product.

3. They claimed modvat credit as they stored the excised goods in respect of such storage tanks. This was not granted by the Asst.

Commissioner of C.Ex., Kalyan-I Dn. by the order of the Tribunal dated 8th February, 1999. This was affirmed by the Commissioner (Appeals) by the impugned order. Against this order the Department has filed the instant appeals. One of the grounds of the appeal is eligibility of credit in respect of the storage

tanks. The product should be recognised as excisable goods and should fall under the category of goods specified against Sr. No. 1 to 4 of the table to Rule 57Q. In my view that argument cannot be accepted because the decision of the Tribunal in the following two cases.

Here the two members who were hearing the appeals had held that such storage tanks is eligible for modvat credit under Rule 57Q of the Central Excise Rules. Following the same I confirm the order of the Commissioner (Appeals) and dismiss the Department's appeal.

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