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Commissioner of Central Excise Vs. Steel Strips and Wheels

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-08-2002

Reported in : (2002)(81)ECC215

Judge : P Bajaj

Appellant : Commissioner of Central Excise

Respondent : Steel Strips and Wheels

Judgement :

1. This appeal has been filed by the Revenue against the impugned order-in-appeal of the Commissioner (Appeals) vide which he has reversed the order-in-original of the Asstt. Commissioner who disallowed the modvat credit to the respondents for having failed to produce the duplicate for transport/original copies of invoices, and claimed modvat credit on the attested copies of the invoices.

2. The Commissioner (Appeals) has allowed the credit after reversing the order of the Asstt. Commissioner on the ground that the certificate attested and issued by ranges of origin were produced by the respondents as duplicate, and original copies of the invoices were lost. But it has not been disputed that on the basis of mere certificates, the modvat credit could not be allowed to the respondents unless they were able to prove the loss of the duplicate or original invoices. There is nothing in the impugned order of the Commissioner (Appeals) that such a loss was proved by the respondents in accordance with law. Therefore, on the face of it the impugned order cannot be sustained and deserves to be set aside.

3. In view of the discussion made above, the impugned order of the Commissioner (Appeals) is set aside and the matter is sent back to the adjudicating authority for de novo consideration in accordance with law after hearing both the sides.

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