Kund Kund Polymers Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-04-2002

Reported in : (2002)(105)LC152Tri(Delhi)

Judge : S Kang

Appellant : Kund Kund Polymers

Respondent : Cce

Judgement :

1. Appellants filed this appeal against the order in appeal passed by the Commissioner (Appeals) whereby the benefit of MODVAT credit in respect of rejected goods received was denied.

2. Appellants are engaged in the manufacture of P.V.C. compound and they cleared the goods on payment of duty. The various customers of the appellants returned the goods under their own invoices under Rule 57F(i)(ii) of the Central Excise Rules on payment of duty. The appellants availed the benefit of MODVAT credit on the strength of invoices issued by the customers. The show cause notice was issued for denying the credit on the ground that the rejected goods cannot be treated as inputs in the manufacture of the same final product.

Adjudicating authority dropped the proceedings. Revenue filed appeal and the Commissioner (Appeals) allowed the appeal filed by the Revenue.

4. The issue involved in this appeal is now settled by the Larger Bench of the Tribunal in the case of CCE, Meerut v. Tin Mfg. Co. reported in 2000 (39) RLT 197 (CEGAT-L.B.) : 2000 (91) ECR 517 (T-LB) where the Tribunal held that the defective final product returned to the manufacturer and which is used in the manufacture of the final produce in such a case returned defective products arc to be treated as eligible inputs as the same was subjected to the process of manufacture. In view of the above decision of the Tribunal, the impugned order is set aside and the appeal is allowed. Appellants are entitled to the consequential relief, if any, in accordance with law.