Kopran Limited Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jun-13-2002

Reported in : (2002)(104)LC644Tri(Mum.)bai

Judge : J T J.H.

Appellant : Kopran Limited

Respondent : Cce

Judgement :

1. On hearing both sides, I find that the issues are settled. I therefore take up the appeal for disposal on granting waiver of pre-deposit of credit denied of Rs. 1,25,521/-.

2. The demand arises as a consequence of denial of modvat credit of duty paid on capital goods. The learned Commissioner in his order had granted relief to a very substantial extent upholding the denial only to the extent as specified above. The position of the various inputs disallowed is as below: (1) Saunder Weir Type Diaphram Valves are used in fermentation and to prevent escape of gases in the atmosphere.

(2) Ejector System used for creating vacuum required for drying finished goods.

In terms of the Tribunal judgment as upheld by the Supreme Court in the case of Jawahar Mills v. CCE these goods would qualify as capital goods.

3. Computers and Recording Chart: The goods are used as monitor for the process regulation. The following judgment have accepted their admission as capital goods Wires fii Fabrics Ltd. v.CCE 2000 (126) ELT 632 : 2000 (91) ECR 689 (T) CCE v. Jindal Strips Ltd. These two items are therefore eligible for the benefit. The jurisdictional authority should, however, ensure that the computers are used in the factory and not in the office.

4. Aluminium Foils and Expanded Polyurethane Sheets: It is admitted that these are packing materials and not capital goods. However, there should be no restriction in granting modvat credit to these goods provided they are declared as inputs under Rule 57A. The original authority would examine this aspect and grant appropriate relief. It may also be kept in mind that a declaration made under the capital goods credit system would enable the assessee to take benefit if the goods qualify under Rule 57A.5. Mafron-22: This is a refrigerant gas and benefit from the following judgment Bagpet Engineering Co. Pvt. Ltd. v. CCE Gujarath Alkalies and Chemicals Ltd.