

**Cce Vs. Monnet Industries Ltd.**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Sep-04-2002

**Reported in :** (2003)(86)ECC481

**Judge :** P Chacko

**Appellant :** Cce

**Respondent :** Monnet Industries Ltd.

**Judgement :**

1. This appeal of the Revenue is against the order of the Commissioner (Appeals) allowing Modvat credit to the respondents on certain parts of electric motors under Rule 57Q for the periods November 1998 and April 1999.

2. The respondents had procured electric motors originally from M/s.

Kirloskar Electric Co, Ltd. for the purpose of running their manufacturing units. In November 1998 and April 1999, these motors were sent to M/s. Kirloskar Electric Co. Ltd. for replacement of certain parts and for allied repair works. The Kirloskar Company undertook the job and returned the motors to the respondents under cover of invoices in which duty of excise was shown to have been paid on the value of replaced parts. The respondents took credit of this duty under Rule 57Q, which was objected to by the department on the ground that the parts of electric motors on which the credit was taken were not brought as such into the assessee's factory. The credit so taken by the part was to the tune of Rs.

1,26,640. The adjudicating authority confirmed demand of this duty under Rule 57U and imposed a penalty of equal amount on the party under the same Rule. The appeal preferred by the assessee against the order of the original authority was allowed by the Commissioner (Appeals). Hence the present appeal of the Revenue.

3. Ld. JDR reiterates the grounds of the appeal and emphasizes the fact that the goods in question were not brought as such into the assessee's factory. According to the DR, the respondents ought to have brought the parts of motors under proper invoices and then sent those parts alongwith the motors (to be repaired) to the job workers in terms of Sub-rule (7) of Rule 57S. In the instant case, Ld. DR submits, the motors were sent for repair work to the Kirloskar company (original suppliers), who sent back the repaired motors with replaced parts fitted thereon to the assessee's factory. According to Ld. DR, this procedure was not contemplated under Rule 57Q read with Rule 57S and, therefore, the Modvat credit was taken in an irregular manner.

4. Ld. Counsel for the respondents, on the other hand, submits that it was only on the value of the replaced parts of electric motors that the job workers (Kirloskar) paid duty and credit of that duty was taken by the assessee on the strength of the invoices issued under Rule 52A by Kirloskar. This was in accordance with the provisions of Rule 57Q. Ld.

Advocate, further, reiterates the findings contained in para-10 of the impugned order and submits that the respondents were entitled to take Modvat credit on the parts of electric motors in terms of Sl. No. 5 of the Table annexed to Rule 57Q(1).

5. I have examined the submissions. It has been clearly found by the lower appellate authority that the respondents had sent the electric motors for repairs to the Kirloskar Company and received the same back under cover of invoices issued by the latter, under Rule 57S(7) of the Central Excise Rules, 1944. This finding is not under challenge. It has been further found by the Commissioner (Appeals) that the job workers viz. M/s. Kirloskar Electric Company Ltd. had paid duty only on the value of the replaced parts of the electric motors as evidenced by the invoices and further that Modvat credit of that duty alone was taken by the

respondents. This finding is also not challenged. Insofar as the eligibility of the goods for Modvat credit under Rule 57Q as amended by Notification No. 6/97-CE(NT) dated 1.3.97 is concerned, Ld.

Commissioner (Appeals) has rendered a well-reasoned decision in para-10 of his order, extracted below: " 10. I find that the Dy. Commissioner, Central Excise, Division-Muzaffarnagar was not correct in holding that the party was not eligible for said credit on the replaced parts of the motors. DC motor was covered under Heading 85,01 which was specifically covered under the definition of capital goods vide Section No. 3 of the Table given in Sub-rule (1) of Rule 57Q during the relevant period of time. The components spares and accessories of the goods specified against Sl. No. 4 of the said Table was also eligible for Modvat Credit under Rule 57Q(1) vide Sl. No. 5 of the said Table.

Thus, the replaced parts which were received by the appellants duly fitted in those motors were received by them under the cover of said invoice-cum-challans. Those (replaced) parts were covered under Rule 57Q(1) of Central Excise Rules, 1944 vide St. No. 5 of the Table. No dispute has been made that those replaced parts were not replaced by M/s. KEC while repairing the said motors. Thus the said replaced parts were duly received by the appellants which were duly fitted in those motors otherwise the same would have been a point of dispute in this case. The appellants were, therefore, eligible for said credit." 6. Having examined the provisions of Rule 57Q as the Rule stood at the material time, I am in full agreement with the above decision of the Ld. Commissioner (Appeals) and I find no valid ground in this appeal against that decision. The appeal is rejected.

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