

Dynatech Packaging Pvt. Ltd. Vs. Commissioner of C. Ex.

Dynatech Packaging Pvt. Ltd. Vs. Commissioner of C. Ex.

SooperKanoon Citation : sooperkanoon.com/29927

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-24-2003

Reported in : (2003)(159)ELT1159TriDel

Judge : P Bajaj

Appellant : Dynatech Packaging Pvt. Ltd.

Respondent : Commissioner of C. Ex.

Judgement :

1. This appeal has been filed by the appellants against the order-in-appeal dated 26-2-2002 vide which the Commissioner (Appeals) has affirmed the order-in-original disallowing the Modvat credit of Rs. 88,551/-to the appellants for month of June, 1998.

2. The Modvat credit had been availed by the appellants during the month of June, 1998 on endorsed bill of entry. Therefore, the only issue involved in the appeal is as to whether on such a bill of entry, the Modvat credit could be taken or not. This issue stands already covered by the Tribunal's judgment in the case of Tata Iron & Steel Co.

Ltd. v. CCE, Jamshedpur -2001 (137) E.L.T. 761 (T), wherein it has been observed that no Modvat credit is available on the endorsed bill of entry. The credit could be available on such a bill of entry only when an endorsement has been made by Head Office in favour of its sub-office or unit. In the instant case, the bill

of entry was in the name of M/s.

Shin Ho Petrochemicals Ltd., who made the endorsement on it in favour of the appellants. The plea of the appellants that commercial bill was also raised in their favour, has been rightly rejected by the authorities below, as the goods had been received by them on the strength of endorsed bill of entry and not the commercial bill.

3. Since the impugned order is perfectly inconsonance and confirmity with the ratio of the law laid down in the above referred case, I do not find any illegality in the impugned order and the same is upheld. As a result, the appeal is rejected.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com