

**Commissioner of C. Ex. Vs. Styrodync Packaging (P) Ltd.**

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**SooperKanoon Citation :** [sooperkanoon.com/30658](http://sooperkanoon.com/30658)

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

**Decided On :** Apr-23-2003

**Reported in :** (2003)(156)ELT233TriDel

**Judge :** S Kang

**Appellant :** Commissioner of C. Ex.

**Respondent :** Styrodync Packaging (P) Ltd.

**Judgement :**

2. Revenue filed this appeal against the Order-in-Appeal passed by the Commissioner (Appeals). In this case, the respondents availed the benefit of Modvat credit on petroleum products after 1-3-99.

Respondents availed the benefit of credit on furnace oil at full rate of 15 per cent. The contention of the revenue in the present appeal is that prior to 1-3-99, the manufacturer can take credit only up to 10 per cent of the duty paid on furnace oil in view of Notification No.5/94. The contention of the revenue is also that as the goods were manufactured prior to 1-3-99, the credit up to 10 per cent can be taken.

3. Respondents availed the credit after 1-3-99, therefore, the respondents are entitled to take credit as per rules existed on the date the credit was taken. It is admitted by the revenue that when the credit was taken and there was no restriction to avail the credit.

4. In these circumstances, I find no infirmity in the impugned order, the appeal is rejected.

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