

Commissioner of Central Excise Vs. Dcl Polyesters Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Apr-30-2003

Judge : A Wadhwa, S T S.S.

Appellant : Commissioner of Central Excise

Respondent : Dcl Polyesters Ltd.

Judgement :

1. This is Revenue's appeal against the Order of Commissioner of Central Excise, Nagpur vide which he has allowed Modvat credit in respect of some of the capital goods. Vide the same impugned order the Commissioner has also disallowed modvat credit in respect of certain other items. We are informed by the Ld. Advocate appearing on behalf of the respondents that the appeal filed by them against that portion of the order disallowing the modvat credit has since been allowed by the Tribunal. As such we are concerned only with that portion of the order by which the Commissioner has allowed the modvat credit.

2. After hearing Shri S.S. Bhagat, Ld. SDR and Shri J.C. Patel, Ld.

Advocate for the respondents we find that the modvat credit was disallowed in respect of electrical wires and cables, control boards, power driven pumps and trolley wheels. Shri J.C. Patel submits that all the above items have been considered by the Tribunal in various judgments and held to be admissible modvatibility capital goods. He places following charts on record:- Goods Supply of electricity to machines in the plant.

2,97,857/- CCE Vs. Jawajar Mills -2001 (132) ELT 3 (SC) b) Control Boards, junction box, electric motors, switches.

carry, store, supply electricity for machinery in the Plant 2,36,451/- Power driven Pumps, antri-Fufal Pumps Pumping of Raw material Eveready Indus. India. Vs. CC 1997(70)ECR79 EID- Parry (I) Ltd.Vs. CC 2002 (150) ELT 765 Three M Paper Mfg. Co. vs. CC 1999 (113) ELT 226 d) Material Handling equipment for transporting intermediate products during manufacture.IFB Industries Ltd. vs CC 2002 (149) ELT 770Polyplex Corporation Ltd. vs CC.TOTAL Lupin Laboratories Ltd. vs.CC. 1998 (100) ELT 52 3. We have seen the judgment relied upon by the respondents and find that all the items of which the Commissioner has allowed modvat credit have been held to be capital goods by the decision referred therein. We also take note of Supreme Court's decision in the case of Jawahar Mills Ltd. referred supra vide which it was held that the definition of capital goods is quite liberal and the only requirement is that the capital goods should be used in the factory of manufacture.

4. We find no reasons to take a different view than the view taken by the various Tribunal's decisions in respect of various items as reflected in the above chart. Accordingly, we rejected the appeal filed by the Revenue.

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