Commissioner of Central Excise Vs. Ballarpur Inds. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-02-2003

Judge : A Wadhwa, S T S.S.

Appellant : Commissioner of Central Excise

Respondent : Ballarpur Inds. Ltd.

Judgement :
1. Revenue has filed this apeal against the order of Commissioner is has allowed modvat credit under Rule 57Q on the following items:- (a) Electrical items installation spares equipment used within the factory : The items include cables, wires, switches, circuit breakers, control panels, contractors and relays, that carry manipulate, store or control the voltage and flow of electricity going into various production machinery. Duty amounting to Rs. 40,01,218/- was allowed the assessee.

(i) Aluminium sheets are used as insulating material for pipeline that carry steam for paper manufacture. These items are part of the pipeline, which in turn is nothing but part of the manufacturing plant. Hence, credit of Rs. 62,899/- was allowed.

(ii) Ring Hammer is used for crushing of the coal, which is ultimately fed for generation of steam. The hammer even if not considered a part of the whole plant, squarely falls under the definition of "accessory" of a plant. Hence, the credit of Rs. 4,758/- was allowed.

(iii) PVC sheets, have been used in pipeline joint, bends and for tank lining. These items are used thus as component of paper making plant and thus the credit of Rs. 915/- was allowed.

2. After hearing both sides and considering the nature of the items and the grounds taken in appeal and the plea of the learned D.R. who in his submissions drew our attention to para 6 of the decision in the case of Jawahar Silk Mills v. C.C.E. Coimbatore - 2001 (132) E.L.T.3 (S.C.) which leads to a proposition that the particular items, could not be considered as used in relation of the production of goods and therefore this appeal should be allowed. The learned Advocate for the respondent relied upon the said decision of Jawahar Silk Mills, wherein electrical wire and electrical machinery has been allowed under Rule 57Q of the said decision. After considering his submissions, we find no merit in Revenue appeal, we rely on the decision of the Hon'ble Supreme Court in the case of Jawahar Silk Mills to (SIC).