

Commissioner of Central Excise Vs. Colour Chem Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-19-2003

Reported in : (2003)(161)ELT1135Tri(Mum.)bai

Judge : S Kang

Appellant : Commissioner of Central Excise

Respondent : Colour Chem Ltd.

Judgement :

1. Revenue filed this appeal against the Order-in-appeal passed by the Commissioner (Appeals) whereby the Commissioner (Appeals) allowed the credit on the inputs used in the final product which is washed away in the flood.

3. The brief facts of the case are that the respondents are engaged in the manufacture of chemicals and were availing the benefit of modvat credit in respect of inputs used in their final product. During the month July 1989 due to floods their semi finished goods as well as finished goods were washed away. This fact is not disputed by the Revenue. The revenue issued show cause notice for recovery of the credit in respect of the inputs used in the manufacture of final product as well as in the semi finished goods. The Commissioner Central Excise in a separate proceeding allowed the benefit of modvat credit in respect of the inputs used in the semi-finished goods washed away floods. The Revenue filed the appeal and the Tribunal dismissed the appeal reported as Commissioner of Central Excise v. Colour Chemicals Ltd. 4. The present proceedings are in respect of the denial of

credit on the inputs used in the final product which is washed away floods.

5. The contention of the Revenue is that as per Rule 57C of the Central Excise Rules 1944, no credit of duty paid on inputs used in the manufacture of final product, can be allowed if the final product is exempted from the whole of the duty or is chargeable to nil rate of duty. In the present case there is no dispute that inputs were used in the manufacture of the final products on which no duty is paid. Hence credit on inputs is not admissible.

6. In the earlier proceedings were the Tribunal allowed the credit in respect of inputs used in the semi finished goods held as under:- "The Departmental Representative attempts to argue that the input is not used till the final product emerges. We are not able to agree with this view. Rule 57F refers to use of inputs in or in relation to the manufacture of final product. It very often happens that input is required to undergo transformation in the course of the manufacture of final product, losing its identity in the process, at stages prior to the emergence of the final product. In other words, an input is often transformed into an intermediate product arising in the manufacture of final product, it would not be correct to say that in that situation, the input has not been used in relation to the manufacture of final product. In the present case, the input was intended to be used in the manufacture of final product and used in relation to such manufacture. The inputs contained in the semi-finished goods, therefore had been used in the manner provided by law. There was therefore no reason why credit should be denied. We therefore see no reason to interfere." The ratio of the above decision is fully applicable on the facts of the present case as the inputs are used in the manufacture of final product. Therefore I find no infirmity in the impugned order. The appeal is dismissed.

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