R.D. Electronics Pvt. Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-04-2003

Reported in : (2003)(88)ECC537

Judge : S Kang

Appellant : R.D. Electronics Pvt. Ltd.

Respondent : Cce

Judgement :

1. Appellants filed these appeals against the common order in appeal passed by the Commissioner (Appeals).

2. Brief facts of the case are that appellants are engaged in the manufacture of Capacitors and were availing the benefit of MODVAT credit.

3. The Appellants were availing the benefit of Notification No.84/94-CE dated 11.4.94 which provides exemption from whole of the duty of excise to the Small Scale manufacturer who are sending the raw-material or semi-finished goods on job work basis to a place outside the factory. Show cause notices were issued to the appellants denying the benefit of MODVAT credit on the ground that the raw material was sent directly to the job workers without receiving in the factory. The adjudicating authority confirmed the demands and imposed the penalty. Appellants filed appeals and the Commissioner (Appeals) dismissed the appeal on the ground that the appellants had not followed the procedure as there is no provisions in the

Central Excise to allow direct movement of goods from the supplier of inputs to the job workers.

5. The contention of the appellants is that they filed, necessary declaration for availing the benefit of Notification No. 84/94-CE dated 11.4.94 without bringing into the factory as well as after bringing into the factory and the name of the job workers were also duly intimated to the Revenue. The appellants also relied on the Circular dated 12.9.95 issued by the Central Board of Excise & Customs which provides that the inputs can directly be sent to the job workers. The contention of the appellant is that in the present case the invoices issued by the manufacture of the inputs are in the name of the appellants and the job workers shown as consignee.

6. The learned Departmental Representative appearing on behalf of the Revenue reiterated the finding of the lower authorities.

7. In these appeals the MODVAT credit is denied to the appellants only on the ground that the inputs directly sent to the job workers. The appellants filed necessary declaration under Notification No. 84/94-CE dated 11.4.94 for sending the goods to their job workers and in the declaration it is specifically mentioned that the raw material will be supplied to the job workers without bringing into factory as well after bringing into the factory. The Revenue had not raised any objection to the declaration filed by the appellants. The appellants also produced copies of the invoices which are in their name and the job workers were mentioned as consignees. As per Central Board of Excise & Customs instructions dated 12.9.95 relied upon by the appellants provided a procedure for sending the goods to the job workers without bringing to the factory of the manufacturer. The relevant portion of the Notification No. 84/94-CE dated 11.4.94 is reproduced below: "It has been decided that the aforesaid circular shall apply mutatis mutandis to those cases also where inputs are supplied to a job worker under the instructions of another manufacturer. In such a situation the consignee will be the job worker and Invoice under Rule 52A, in addition to the prescribed details including the consignee's name and address will also bear the name and address of manufacturer on whose instruction the goods have been so dispatched.

The duplicate copy of the manufacturer's invoice under Rule 52A will serve as a cover for transport and for availment of Modvat by the input user (job worker)".

8. In the present case the invoices issued by the manufacturer are in the name of the appellants and the consignee is the job worker.

Therefore, in view of the above circular, the appellants are entitled for the benefit of the MODVAT credit. The impugned order is set aside and the appeals are allowed.