

**Commissioner of Central Excise Vs. Gayatri Controls**

**Commissioner of Central Excise Vs. Gayatri Controls**

**SooperKanoon Citation :** [sooperkanoon.com/31978](http://sooperkanoon.com/31978)

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

**Decided On :** Aug-27-2003

**Judge :** M T K.D.

**Appellant :** Commissioner of Central Excise

**Respondent :** Gayatri Controls

**Judgement :**

1. This is an appeal by the Commissioner of Central Excise against the order-in-appeal passed by the Commissioner of Central Excise (Appeals).

Gayatri Controls, Kurla, Mumbai (Respondents) are manufacturers of electrical control panels and other control equipments. It was alleged that they had availed modvat credit incorrectly on the strength of invalid documents that is on "Subsidiary certificate issued by the Superintendent of Central Excise after 1st April 1994." The ineligible amount if Rs. 5826/-. The Assistant Commissioner has objected that subsidiary certificate dated 6.4.94 is invalid document. Denial of credit was challenged by the respondents by filling an appeal to the Commissioner of Central Excise, Mumbai, who decided the appeal in favour of the respondents.

"It has been held by A.C. that by virtue of Notification No. 16/94 (NT) dated 30/03/94 certain documents have been specified as duty paying documents under Rule 57G for availing Modvat Credit. The subsidiary certificate is issued on the original GPI or B.O.E. after 01/04/94 is invalid for availment of Modvat Credit. By virtue of Notification No. 21/94 O.E.(NT) dated 12/05/9 the admissibility of such

credit was made applicable to such documents upto 31/12/94, by virtue of Notification No. 30/94 dated 29/06/94, which the A.C. in his impugned order had not considered." The finding of the Commissioner (Appeals) have been challenged in the instant appeal filed by the Commissioner.

3. The respondents have waived the personal hearing. The learned departmental representative pleads in support of the order-in-original.

4. The modvat scheme was liberalized in the year 1994 by expanding the eligibility list of duty paying documents for taking credit. The fundamental principle however, remains that, the goods on which the credit has been taken should be such, which have (i) paid the duty as evidenced by the documents and (ii) such inputs are actually used in or in relation to the manufacture of finished products. In this case, though the certificate by a Superintendent of Central Excise ceases to be a listed document under the rules, it nevertheless can not be relegated to an inferior status compared to the status of other documents such as dealers invoice where trust is placed on non departmental authorities. In the instant case, the duty paying nature of the inputs was certified by the authorities of the department and it is also seen that, in the appeal filed by the Commissioner, the effect of notification No. 30/94 dated 29.6.94, under which admissibility of credit against such certificates up to 31.12.94 was permitted, has not been commented upon. This case is also covered by the scheme of extension under Notification No. 30-94 dated 29.6.94. In view of the above the appeal filed by the Commissioner is rejected.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**