Mark-lamb Collor Plus Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-04-2003

Reported in : (2004)(112)LC215Tri(Delhi)

Judge : S Kang

Appellant : Mark-lamb Collor Plus Ltd.

Respondent : Cce

Judgement :

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

2. In the present case the benefit of MODVAT credit was denied to the appellants on the ground that the invoices were in the name of the Head Office, whereas the credit was taken in the factory. The credit was also denied on the gound that address of the appellant's factory was not correctly mentioned.

3. The contention of the appellants is that the Central Board of Excise and Customs issued a Circular dated 14.5.1996 whereby it was clarified that credit shall not be denied on the ground that invoice was in the name of the Head Office of the manufacturer, whereas the credit was taken in the manufacturing Unit. The appellants also relied upon the decision of the Tribunal in the case of Chrome Chemical Industries v.Commissioner of Central Excise, Calcutta-IV, reported in 2001 (135) ELT 405 (Tri.-Kolkata), wherein in similar situation the credit was

allowed.

4. In respect of the credit where the address of the firm was not mentioned, the contention of the appellant is that in the month of April, 1998 they closed their manufacturing Unit at Mathura Road and started a fresh Unit at Village Bhagola, Palwal and after getting a fresh registration. The manufacturer were continued to mention their old address on the invoices. Appellants relied upon the decision of the Larger Bench of the Tribunal in the case of Kamakhya Steel (P) Ltd. v.Commissioner of Central Excise, Meerut, 5. The learned Departmental Representative appeared on behalf of the Revenue Reiterated the finding of the lower authority submitted the invoices should be in the name of the manufacturing Unit and by mentioning wrong address of the Units, appellants are not entitled for the credit.

6. I find that the Central Board of Excise and Customs issued a Circular dated 14.5.1996, to remove the difficulties where the invoices were in the name of the Head Office and the credit was taken in the manufacturing Unit. The Tribunal in the case of Chrome Chemical Industries v. Commissioner of Central Excise, Calcutta-IV (Supra) after considering this Circular held that manufacturing Unit is entitled for credit where the invoices were in the name of Registered office in case the invoices were not endorsed by the Head office which is only a procedural lapse. In these circumstances the credit cannot be denied to the appellants on the ground that the invoices were in the name of the Head office.

7. The factory premises of the appellants were shifted to a new place in the month of April, 1998 but they were receiving invoices on the old address. The Tribunal in the case of Kamakhya Steels (P) Ltd. after taking into consideration the amendment to Rule 57G and 57T of the Central Excise Rules, 1944 by Notification No. 7/99-CE(NT) dated 9.2.1999 held that the credit shall be denied on the ground that any of the documents, mentioned in Sub-Rule (3) does not contain all the particulars required to be contained under these rules, if such document contains details of payment of duty, description of the goods, assessable value, name and address of the factory.

8. In the present case admittedly the factory premises were shifted to the new place whereas on the invoice the old address was mentioned where no manufactural activities were carried out. In these circumstances, the appellants are entitled for the credit of these invoices also. The impugned order is set aside the appeals are allowed.