C.C.E. Vs. Denso India Ltd.

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SooperKanoon Citation : sooperkanoon.com/32128

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-05-2003

Judge : S Kang

Appellant : C.C.E.

Respondent : Denso India Ltd.

Judgement :

2. Revenue filed this appeal against the order in appeal passed by the Commissioner (Appeals). The Commissioner (Appeals) in the impugned order held that MODVAT credit on Plastic Crates which are used by the Respondents to pack their highly sensitive auto parts are eligible for the benefit of the MODVAT credit as packing material.

3. The contention of the Revenue is that crates in question are not packing material. They are only used for transportation of the goods and its is only a secondary packing.

4. The contention of the respondents is that the electrical parts are put in the polythene wrapper and, thereafter, were put in the container and they were added the value of containers for the assessment of the value of their final product for the Central Excise duty. The respondents relied upon the Central Board of Excise and Customs Circular dated 13.9.95 where the Board has clarified that MODVAT credit on container is available under Rule 57A of the Central Excise Rules, 1944 if their goods are included in the value of the final product.

Further, I find that the Tribunal in the case of Black Diamond Beverages Ltd., reported in 1997 (91) E.L.T. 422 and Paras Pharmaceutical, reported in 1999 (108) ELT 580 held that MODVAT credit is available on the packing material if the value of packing in included in the value of final product for assessment of duty. In view of the above discussion, I find no infirmity in the impugned order. The appeal is dismissed.