Cce Vs. Neco Casting Ltd.

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SooperKanoon Citation : sooperkanoon.com/32331

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Sep-18-2003

Reported in : (2004)(115)LC604Tri(Mum.)bai

Judge : K Kumar

Appellant : Cce

Respondent : Neco Casting Ltd.

Judgement :
1. Shri S.S. Bhagat, Ld. S.D.R. appeared on behalf of the Revenue and he contended that the modvat credit is not admissible to the respondent in view of the fact that the refractory bricks were not covered under the exclusion clause of Rule 57A of Central Excise Rules, 1944 at the relevant time. He also submitted that though subsequently refractory bricks were specifically covered within specific goods, the respondents have claimed it as input and have filed no declaration with regard to the claiming of the credit. In support of his contention, he relied on the decision in the case of Mukund Iron and Steel Works Ltd. v.Collector of Central Excise wherein the Tribunal in para 7 has noted that the submission of the learned senior advocate appeared on behalf of Mukund Iron and Steel Works Ltd., wherein he clearly admitted the refractory bricks not eligible for modvat credit.

Therefore, his submission is that the respondents are not eligible for modvat credit on refractory bricks claimed as input used for the manufacture of the final product.

2. Shri V.S. Sadavarte, Ld. Consultant appeared on behalf of the respondents and he relied on the decision in the case of Kalyani Steels Ltd. v. CCE 1998 (74) ECR 884 (Tribunal) wherein in para 8, the Tribunal has held that the refractory bricks are inputs which are eligible for the benefit of modvat credit scheme under Rule 57A. The decision of the Tribunal in the case of Kalyani Steels Ltd., has also relied on the decision of the larger bench while allowing the modvat credit.

3. After hearing rival submissions, perusal of the records and the case laws relied on by both the sides, I find that the decision of Kalyani Steel Ltd. is later in time and the Tribunal while relying on the larger bench's decision allowed the credit on refractory bricks used as inputs. Therefore, following the ratio of the decision of the Kalyani Steels Ltd., I dismiss the appeal filed by the Revenue.