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Schon Plastics (P) Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-20-2003

Reported in : (2004)(175)ELT575Tri(Mum.)bai

Judge : M T K.D.

Appellant : Schon Plastics (P) Ltd.

Respondent : Cce

Judgement :

2. The dispute in the appeal relates to admissibility of Modvat credit of Rs. 100519.92, taken on the basis of duty paying documents which were alleged to be not proper. The documents are subsidiary gate passes issued after 1.4.94. In the analysis of the Assistant Commissioner who confirmed the demand, it is mentioned that, subsidiary gate passes issued prior to 1.4.94 in respect of gate passed issued prior to 1.4.94 are valid documents in terms of provisions contained in Notification No. 16/941CE(NT). The subsidiary Gate passes, issued in the instant case relate to the gate passes issued before 1.4.94 but the subsidiary gate passes have been issued thereafter.

3. In this connection, I find that, duty paid nature of the goods is not in dispute. The subsidiary gate passes has been issued on the basis of Original Gate Passes issued by M/s IPCL, by the Superintendent in charge of M/s IPCL. The said certificate, having been issued by the Range Superintendent even after 1.4.94 show that, even the Range Superintendent was not aware of the invalidity of these

documents beyond 1.4.94. If the appellants were to be made aware of this ineligibility the appellants could have then, obtained the invoice for the despatched quantity from M/s IPCL themselves. I also note that in terms of amendment to Modvat rules, made through Notification No.7/99-CE(NT) dated 9.2.99 any deficiency in the duty paying documents has to be ignored provided the duty paying nature of the goods and their utilisation for manufacture of finished goods is satisfied. There is no dispute in this case about these aspects. Therefore, the credit on the basis of subsidiary gate passes cannot be disallowed. The said documents were available with the appellants at the point of taking credit and only during the subsequent litigation process these have been allegedly stolen from car parking. Since the contents of the documents was not in dispute during the adjudication proceedings the credit is permissible.

4. Accordingly, I allow the appeal and set kaside the orders of the lower authorities.

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