Commissioner of Central Excise Vs. Bharat Forging Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-22-2003

Judge : A M Moheeb

Appellant : Commissioner of Central Excise

Respondent : Bharat Forging Ltd.

Judgement :

1. This is a Revenue appeal against the order of the Commissioner (Appeals) No. PI/6/2001 dt. 10.1.2001 the appeal came up for admission on 22.10.2003. The appeal is admitted and the main appeal itself is taken up for consideration.

2. Briefly the facts are that the Commissioner (Appeal) in the impugned order observed that the respondents are manufacturers of steel castings and forgings. For the heat treatment of these items furnace is required which is in the nature of capital goods. The tray castings HR Trays and Alkar rolls, furnace castings and Bracket for HR Trays are the parts of furnace and therefore are eligible for capita goods credit. He also held that electric wires and cables and switches used in the factory of production are eligible items of capital goods as held by the Larger Bench in the case of Jawahar Mills Ltd. v. Commissioner of Central Excise [1999 (108) ELT 47]. Thus the Commissioner's (Appeal) upheld the order of the lower authority, the Revenue came in appeal against this order. The main grounds of appeal are that the larger Bench decision cited above has not been accepted by the department and Civil Appeal filed before the Hon'ble Supreme Court against the said order of CEGAT has been admitted. The second ground is that Rule 57Q

is restrictive and relates to goods used in the production, processing or for bringing about any change in the substance in manufacture of final product. The capital goods should have nexus for bringing about any change in substance of goods by participating in manufacturing activity.

3. I have heard both sides, the Larger Bench decision cited above which has been appealed against by the department holds ground today. The Supreme Court rejected the department's appeal against the Benches decision. Thus the first ground of Revenue fails. In so far as the second ground I observe that the Commissioner (Appeals) has brought out as to how the goods in question are essential for manufacture of castings and forgings I have no reason to disagree with the observation made by the Commissioner (Appeals). The appeal of the Revenue is rejected.