Sewak Pharma Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Nov-25-2003

Reported in : (2004)(175)ELT645Tri(Mum.)bai

Judge : K Kumar

Appellant : Sewak Pharma

Respondent : Commissioner of Central Excise

Judgement :
1. Shri S.P. Sheth, Ld. Advocate appeared on behalf of the appellant and Shri S. Singhal, Ld. JDR appeared on behalf of the Revenue.

2. The Ld. Counsel interalia contended that the adjudication order is void ab-initio as the same has violated the principles of natural justice; that the same was passed ex-parte despite the adjournment request by the appellant; that the appellants were manufacturing the goods on Loan Licencee basis for various parties and as per the prevalent and accepted trade practice, were receiving the duty paid inputs directly from the manufacturers under the cover of relevant duty paying documents and the Modvat credit was availed on the basis thereof. The CBEC had also clarified that in case where the goods are being manufactured on job work basis, the name of the buyer of the inputs as well as the job worker should appear in the duty paying documents in order to avail the Modvat credit; that once it is established and that the entire consignment covered by the relevant duty paying documents were received by the appellant and the same were duty

paid and also used in the manufacture of the finished products in accordance with law, the question of denying the Modvat Credit to the appellant does not arise; that it is also settled law that mere procedural lapses or technicalities should not be resorted to in order to deny the substantive benefit of Modvat Credit to the appellant. In support of his contention he also relied on the decision in the case of Hegal Capsulindus. Ltd. v. CCE - 2001 (137) ELT 374 (Tri.), Crop Health Products Ltd. v. CCE(Tri.), Universal Medicare Ltd v. CCE - 2003 (54) RLT 111 (CEGAT Mum), Orders Nos. C-1/2024, 2025/WZB/2003 dt. 5.9.03 in the case of M/s. Mac Laboratories Ltd. The ld. JDR reiterated the order passed, by the lower authority.

3. After hearing both sides and the case laws relied on by the Ld.

Counsel, I set aside the impugned order and allow the appeal filed by the appellant.