Commissioner of Central Excise Vs. Jindal Strips Limited

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-04-2003

Reported in : (2004)(165)ELT532TriDel

Judge : S Kang, a T V.K.

Appellant : Commissioner of Central Excise

Respondent : Jindal Strips Limited

Judgement :

1.The Revenue filed this appeal against the adjudication order passed by the Commissioner of Central Excise.

2. The brief facts of the case are that the respondents are engaged in the manufacture of excisable goods and were availing the benefit of Modvat credit on inputs as well as on capital goods. A show cause notice was issued to the appellants for taking the benefit of Modvat credit in respect of capital goods on the ground that they had not complied with the provisions of Rule 57R(3) of the Central Excise Rules. The adjudicating authority dropped the proceedings.

3. The contention of the appellants is that the appellants had not complied with the condition of Rule 57R(3) as they had not produced any evidence to show cause that the Excise duty on the capital goods was paid by the respondents as the goods were received under lease agreement.

4. The contention of the respondents is that they had produced the certificate from the manufacturer of the capital goods showing the excise duty was paid by the respondents. The respondents also produced the certificate from the finance company to the effect that the amount of lease excluded the amount of Excise duty and the Excise duty was separately paid by the respondents. This evidence was produced by the respondents before the adjudicating authority.

5. In view of the factual position that the Excise duty was paid on the capital goods by the respondents and is not the part of the lease agreement, we find no infirmity in the impugned order. The appeal is dismissed.