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Arvind Intex Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-11-2003

Reported in : (2004)(167)ELT235Tri(Mum.)bai

Judge : S T C.

Appellant : Arvind Intex

Respondent : Commissioner of Central Excise

Judgement :

1. Heard both sides. The lower authorities have denied credit on capital goods amounting to Rs. 82,750/- and penalty of Rs. 10,000/- has also been imposed in respect of two machineries :- Shri Vyas, learned Advocate states that the first machine is used for wrapping a set of cones of yarn and is as such used for packing of finished goods to make it marketable. As far as the second machine is concerned, he states that this machine is used for replacing flats in carding machines as the flats are used for opening cotton for carding which has to be replaced after 400 tonnes of cotton is carded. He submits that the first machine is used for packing and completion of finished goods to make it marketable whereas the second machine is used for making the raw material suitable for use in the manufacture of yarn and hence both are eligible for Modvat credit. I find merit in the submissions made by the learned Advocate. Considering the functions of both the machines, I am of the view that both are eligible for Modvat under the existing rule in force at the relevant time. As such, I set aside the impugned order and allow the appeal with consequential benefit.

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