Commissioner of Central Excise Vs. Stylo Pack

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SooperKanoon Citation : sooperkanoon.com/33689

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jan-07-2004

Reported in : (2004)(167)ELT102Tri(Mum.)bai

Judge : S T S.S., K Kumar

Appellant : Commissioner of Central Excise

Respondent : Stylo Pack

Judgement :

1. Revenue is in appeal against the order of the Commissioner of Central Excise (Appeals) having held that after availing Modvat credit the goods do not loose their duty paid character, therefore the waste would be arising from such inputs are not intermediate goods and the contents of Notification No. 14/92, dated 1-3-92 are satisfied.

(i) Waste arises during manufacture process from lay flat tubes which were except under Notification No. 217/86, which are intermediate goods and not inputs.

(ii) Inputs loose the duty paid character ones the credit has been availed.

3. The Commissioner has relied upon Tribunal decision in the case of Metrosyl, Jesidih Industrial Area [1991 (53) E.L.T. 93] to arrive at his conclusion that inputs do not loose duty paid character after availment of Modvat credit and had the intention be otherwise, the notification would have stipulated 'no credit availed on inputs' and valued has to be interpreted strictly. No contrary decision has been

shown to us. Therefore, no merits are found in the grounds taken to upset the Commissioner findings.