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Cce Vs. R.S. Electricals

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-21-2004

Judge : P Bajaj

Appellant : Cce

Respondent : R.S. Electricals

Judgement :

1. In this appeal the Revenue has disputed the correctness of the impugned order in appeal vide which the Commissioner (Appeals) has allowed the Modvat credit of Rs. 19.111/- to the respondents. None has come present on behalf of the respondents in spite of issuance of notice. No request for adjournment has also been received from them.

Therefore, proceed to decide the appeal after hearing the learned SDR.2. Learned SDR has contended that the Commissioner (Appeals) has not recorded his findings regarding the actual reuse of rejected tungsten, by the respondents as inputs, for the manufacture of the final products Tungsten wire and articles thereof and as such the impugned order passed by him deserves to be set aside.

3. I have gone through the record and in my view the contention raised by the learned SDR can not be accepted. The bare perusal of the impugned order shows that the Commissioner (Appeals) earlier on similar facts and for the same rejected goods, being used as inputs for the manufacture of final products, had allowed the Modvat credit to the respondents vide order dated 31.07.2003, by following the law

laid down in Golden Iron & Steel Works Vs. CCE - 2003 (153) ELT 330 (T). He has followed his earlier order and allowed the credit to the respondents, for the period in dispute. There is nothing on record to suggest if that order of the Commissioner (Appeals) has been reversed by the Tribunal. Even in the grounds of appeal, the commissioner has not mentioned that the said earlier order of the Commissioner (Appeals) had not been accepted and appealed against before the Tribunal. Therefore, the Commissioner (Appeals) has rightly followed his earlier order and as such I do not find any illegality in the impugned order passed by him and same is upheld. The appeal of the Revenue is dismissed.

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