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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-25-2004

Judge : M T K.D.

Appellant : The Commissioner of Central

Respondent : Crompton Greaves Ltd.

Judgement :

1. This is a revenue appeal against the order-in-appeal passed by the Commissioner (Appeals). Vide the said order the Commissioner (Appeals) rejected the appeal of the revenue, against an order passed by the Deputy Commissioner Central Excise. The Deputy Commissioner in his order-in-original in question, dropped the show cause-cum-demand notice seeking recovery of modvat credit of Rs. 53,562/-. The said show cause notice, was issued proposing denial of modvat credit on account of defects in the duty paying documents. The defects in the duty paying documents were enumerated as under:- a) Registration obtained by the dealer mis-declaring certain basic facts.

2. While rejecting the revenue's appeal the Commissioner (Appeals) has observed as under:- It is a well settled law that modvat credit should not be denied on mere technical ground if there is major compliance of modvat rules i.e. if it is a established that, the inputs are duty paid, they are received into the factory and accounted for in the relevant register and used in the manufacture of dutiable final product. In the present case, there is nothing against the respondent on this count that means the department has accepted this fact and therefore, major compliance

of the modvat rules has been made by the respondent. I also rely upon the decision of the Tribunal referred above in case of M/s. Bajaj Tempo Ltd., v. CCE & Customs Pune.

Apart, from this there are number of judgments by the Tribunal wherein such minor technical lapses have been set aside and modvat credit has been allowed.

3. In the revenue appeal against the Commissioner (Appeals)'s order, reliance has been placed on Tribunal's order in the case of M/s. C.G Glass Ltd., v. CCE & Customs, Vadodara reported in 2001 (132) ELT 707 (Tri.Mum). In terms of the said judgment, it is pleaded that, the procedural lapses cannot be condoned, as this would jeopardise the administration of the Central Excise law.

5. It has not come on record, as to whether, on account of deficiencies mentioned in the show cause notice, any misuse of scheme has come to surface. On the contrary CEGAT judgment in the case of Bajaj Tempo Ltd., v. CCE & Customs, Pune reported in 1999 (106) ELT 145 (T) has been relied by the Commissioner (Appeals) to hold that, the absence of pre-printed serial number is merely a technical lapse and does not disentitle the appellants to modvat credit.

6. I also find that, the Larger Bench of the Tribunal in the case of Satyen Dyes reported in 2001 (134) ELT 655 has held that, the defects in duty paying documents of curable nature are to be ignored.

7. Following the decision of the larger bench in the Satyan Dyes (supra) I hold that, the revenue appeal is without any merit and the same is accordingly rejected.