Atul Ltd. Vs. Commissioner of Central Excise

Atul Ltd. Vs. Commissioner of Central Excise

SooperKanoon Citation : sooperkanoon.com/34716

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-25-2004

Judge : M T K.D.

Appellant : Atul Ltd.

Respondent : Commissioner of Central Excise

Judgement :
1. The dispute in the instant appeal from the appellants relates to denial of modvat credit under the category of capital goods. The goods in question are:- 1. Textile packing, Immarco Branded Glend packing. Textile Articles, Non Woven Filter Fabrics & PTFE Graphite packing.

In the impugned order Passed by the Commissioner (Appeals) credit only in respect of fluroscent street light was allowed and denial of credit on the rest of the items by the adjudicating authority was confirmed.

Hence the instant appeal.

3. In the impugned order it has been observed that the law relating to coverage of capital goods under went change from 1.3.97. Hence the decisions cited to claim eligibility would not be applicable. The claim was denied on the basis of coverage of the various items under Rule 57Q and it was held that except the Fluroscent lamps, the rest of the items being not covered, the credit is not admissible.

4. However, so far as the packing materials listed at serial No. 1 in para 1 above are concerned, it was pleaded by the appellants that these are being used in various joints of the machines to prevent leakage.

These are in the nature of components. Hence these are covered under the amended rule also vide entry at serial No. 2 of the table in column (2) against serial No. 1.

5. I have considered the rival submissions-I note that the claim on packaging material is permissible under the category of "the components" as claimed by the appellants.

6. Therefore, I hold that the appeal is required to be allowed only in respect of the "packing material" while the same in respect of the remaining items has to be rejected.

7. Accordingly, the appeal is partly allowed by extending credit only on the "packing material" while the denial of credit on the rest of the items by the Commissioner (Appeals) is upheld.