Standard Mills Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Apr-06-2004

Reported in : (2004)(175)ELT617Tri(Mum.)bai

Judge : S T S.S., T Anjaneyulu

Appellant : Standard Mills

Respondent : Commissioner of Central Excise

Judgement :

1. After hearing both sides and considering the issue in this case is eligibility of Modvat credit on capital goods, namely 'autoconer machine with spindles and its components,' being spares for capital goods, and lower authority has come to a finding, after hearing the appellants, and considering the materials on record that the said autoconer system has a winding machine system and is meant for 'production of yarn packages.' Therefore, it is used only as a winding system for making 'yam packages' out of the 'yarn' which is already manufactured duly wounded on bobbins duty paid at spindle stage.

Therefore these machines and their spares would not fall under the definition of 'capital goods'.

2. We find force in the argument advanced by the learned Advocate to the effect that: (a) On 16.3.1995 Tariff was amended to bring in certain processes subsequent to 'spindle stage' in yarn factories to be deemed manufacture by

introducing Chapter Notes. The autoconer systems used for the purpose of such rewinding would be thus effecting the manufacture under this deemed manufacture clause.

(b) The alternate submission that system is admittedly put to use for 'packing yarn.' Since packaging is incidental to manufacturing the excisable commodity and the process is integral for marketing of the goods, therefore relying upon the decision of the Supreme Court in East End Paper Mills v. CCE 1989 (43) ELT 201 (SC) and J.K. Cotton Spg. & Wvg. Mills Co Ltd v. Salex Tax Officer 1997 (91) ELT 34 (SC) the expression 'in the manufacture of goods' should normally encompass the entire process carried out of converting raw materials into finished goods and in this case, the yarn cannot be effectively marketed, as it comes out at spindle stage, but has to necessarily be packed, would indicate that the entity which has been denied eligibility Under Rule 57Q cannot be denied the entitlement.

(c) Relying upon the decision of the Larger Bench of this Tribunal in the case of Jawahar Mills Ltd v. CCE 1999 (108) ELT 47 (Tri), which has been confirmed by the Supreme Court in appeal. (2001 (132) ELT 3 (SC)) component and parts of this autoconer system would be eligible to Modvat credit as 'capital goods'.

3. In view of the findings, the denial of Modvat credit as capital goods on the entity impugned in this case cannot be upheld. Therefore, the order is required to be set aside and appeal allowed with consequential benefit.