Supriya Pharma Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-12-2004

Reported in : (2004)(94)ECC417

Judge : K Usha, N T C.N.B.

Appellant : Supriya Pharma Ltd.

Respondent : Cce

Judgement :

1. This appeal M/s Supriya Pharma Ltd. relates to denial of Modvat credit taken in respect of inputs used in the processing of bulk drugs on job work basis. The appellant receives processing contracts from pharmaceutical companies for processing of inputs supplied by them into bulk drugs. While the main inputs are supplied to the appellant, it also purchases and adds some of the inputs. In respect of the inputs supplied, credit of duty is taken by the supplier and is retained with him for use in the payment of duty on medicines manufactured for the bulk drugs. The appellant takes Modvat credit for the inputs purchased by it and uses that credit of payment of duty on other products manufacture by it. Under the impugned orders, the lower authorities held that the appellant was not entitled to take Modvat credit on the inputs purchases by it inasmuch as the bulk drugs purchased from them were cleared without payment of duty under Notification No. 214/86.

Another ground for denying Modvat credit is that some of the inputs had been destroyed and not used in the manufacture of any final product.

2. The appellants contend that both the above issues remain covered in favour of the assessee by the decisions of this Tribunal and therefore the impugned orders are not sustainable. With regard to the issue of taking Modvat credit on inputs used in the processing of goods on job work basis, the appellant has pointed out that the issue remains settled in favour of the assessee under the orders of this Tribunal in the case of Jindal Polymers v. CCE,Shakti Insulated Wires Ltd. v. CCE, 2001 (149) ELT 668 etc. During the hearing of the case learned Counsel also pointed out that the appeal filed by the Revenue against the decision of the Tribunal in the case of Shakti Insulated Wires Ltd. was dismissed by the Hon'ble Supreme Court as reported in 2003 (151) ELT A89. With regard to the second issue of credit on destroyed inputs, the appellants have relied on the decision of this Tribunal in the case of Commissioner of Central Excise, Chennai-III v. Indchem Electronics, 2003 (151) ELT 393.

3. We have perused the records and heard the learned SDR also. The issues on account of which credit have been denied in the impugned order remain answered in favour of the assessee in the aforesaid orders of this Tribunal. The present orders cannot be sustained, as they are contrary to the ratio of these orders. They are, accordingly, set aside and the appeals are allowed with consequential relief, if any, to the appellants.