

Hindustan Udyog Vs. Cce

Hindustan Udyog Vs. Cce

SooperKanoon Citation : sooperkanoon.com/35607

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-11-2004

Reported in : (2004)(97)ECC686

Judge : S Kang, a T V.K.

Appellant : Hindustan Udyog

Respondent : Cce

Judgement :

1. The appellant filed this appeal against Order-in-Appeal passed by the Commissioner (Appeals).
2. The brief facts of the case are that the appellants are engaged in the manufacture of excisable goods and were availing the benefit of Modvat Scheme in respect of the inputs used in the manufacture of final product. The appellant started availing the benefit of small scale exemption under Notification No. 8/99-CE with effect from 1.4.99. The appellant opted out of the Modvat Scheme with effect from 31.3.99. At the time of opting out of the Modvat Scheme the appellant had reversed the credit in respect of the input lying in stock as well as inputs in the finished products, which was also lying in stock. A show-cause notice was issued to the appellant demanding duty of Rs. 44,614 in respect of the inputs lying in stock and the inputs in the final product as on 1.4.99.

3. The demand was confirmed. The appellants are not challenging the impugned order on merit. The appellants are challenging the quantification of the demand.

4. The contention of the appellant is that the appellant was receiving inputs from M/s. U.P. Small Scale Indus. Corpn. and from other traders also and they were not taking credit in respect of such inputs which were received from traders. On 15.3.99 there was closing balance of 515 kgs. of inputs and thereafter they have taken credit only in respect of 15700 kgs. of inputs on 26.3.99. The appellant had not availed the benefit of Modvat credit in respect of other inputs received after 15.3.99. This clearly indicate that out of total inputs received from 15.3.99 to 31.3.99 only 20% were the inputs on which Modvat credit was availed by the appellants. If that ratio is taken for the purpose of calculating the liability of the appellant to reverse the Modvat credit on inputs and the finished goods lying on stock, it comes to Rs. 12,814. Against this liability, the appellants had an unutilised balance of Rs. 22,729.36 in their RG 23A Part-II account on 31.3.99.

6. In this case the appellants were only challenging the quantification of demand. The appellant has produced date-wise stocks of wire rod during January-March 1999 which shows the balance of 515 kgs. on 15.3.99 and from 15.3.99 to 31.3.99, the appellant availed the credit in respect of 15700 kgs. of inputs. This factual position is not disputed by the Revenue. Therefore, the appellants are only liable to reverse the credit in respect of this quantity only. As we are confirming the impugned order in respect of the demand regarding the inputs on which the credit was availed by the appellant, keeping in view the facts and circumstances of the case the penalty is reduced to Rs. 2000. The appeal is disposed of as indicated above.