Galaxy Clocks Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jul-08-2004

Reported in : (2004)(172)ELT378Tri(Mum.)bai

Judge : M T K.D.

Appellant : Galaxy Clocks

Respondent : Commissioner of Central Excise

Judgement :

1. The appeal is directed against the order-in-appeal, whereby the claim of the appellants to avail Modvat credit on capital goods has been rejected. The brief facts of the case are that the appellants had a balance credit of Rs. 1,48,899/- as on 31-3-2000, which was on account of the cap of 50% credit availment on capital goods that was permissible in the financial year of installation of capital goods in a factory. In other words, if the restriction of utilisation of only 50% of the credit of capital goods was not to exist under the said Modvat rules, the appellants could have utilised the entire credit of duty paid on the capital goods as against the utilisation of 50% of credit amount. However, on account of this restriction, the appellants had balance credit of Rs. 1,48,899/- on 31-3-2000 as stated earlier. The appellants had surrendered their Central Excise registration on 7-4-2000 on account of introduction of full exemption to finished goods (clocks) manufactured by them. The clocks were again subjected to duty in 2001-2002 with effect from 1-3-2001. The appellants therefore claimed that the credit, which remained unutilised as on 31-3-2000 should be, re-restored to them.

3. I note that the appellants have no case on merits. The credit of duty is available in respect of inputs on which duty has been paid and which are unutilised in the manufacture of finished goods, which are subjected to duty. It is true that no one to one co-relation is required. The fact, however, remains that the said goods are required to be utilised in the manufacture of final products on which duty is paid. In this case, the goods happened to be capital goods. The credit to the extent of 50% was actually utilised prior to 31-3-2000. Since the final products was fully exempted from 1-4-2000, the credit which the appellants could not utilise due to the restriction of 50%, the balance 50% amount remained unutilised. The appellants also surrendered their Central Excise registration. Therefore, all transactions pertaining to the bringing of duty paid capital goods and the utilisation in the manufacture of duty paying final goods stood finally terminated and closed. On the date of introduction of duty on the clocks again on 1-4-2001 there could not be any re-opening of the transactions which were already finalised and closed. There is no provision under the rules to revive the credit which had finally lapsed due to introduction of full exemption on the finished goods.

4. I, therefore, hold that the findings arrived at by the Commissioner (Appeals) are correct and do not call for any interference. The appeal is accordingly rejected.