Commissioner of Central Excise Vs. Ranbaxy Laboratory Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-26-2004

Reported in : (2005)(179)ELT362TriDel

Judge : S Kang, N T C.N.B.

Appellant : Commissioner of Central Excise

Respondent : Ranbaxy Laboratory Ltd.

Judgement :

2. Revenue filed this appeal against the order in appeal passed by the Commissioner (Appeals) whereby the benefit of Modvat credit in respect of the inputs received from their Paonta Sahib Unit was disallowed on the ground that Paonta Sahib Unit have not paid duty.

3. The brief facts of the case are that inputs were manufactured at Paonta Sahib Unit of Ranbaxy Laboratories Ltd. were sent to Mohali Unit. The Mohali Unit availed the credit. Thereafter, the Mohali Unit returned the goods to Paonta Sahib Unit, as the inputs were defective and also reversed the credit. The manufacturing Unit i.e. Paonta Sahib Unit after re-processing, cleared the inputs without payment of duty.

On receipt of the inputs, the Mohali Unit again took Modvat credit. A separate show cause notice was issued to the Paonta Sahib Unit for demand of duty in respect of re-processed goods on the ground that the activity undertaking by the manufacturing Unit amounts to manufacture as the manufacturing Unit have cleared the goods of different batches.

The matter in respect of Paonta Sahib Unit diverted to the Unit vide Tribunal Final Order No. 849/2003-B, dated 17-10-2003 [2004 (168) E.L.T. 321 (Tri-Del)]. set aside the demand on the ground that processes undertaken by the manufacturing Unit on the defective goods does not amount to manufacture.

4. The present proceedings are in respect of the Mohali Unit where show cause notice was issued to Mohali Unit denying the benefit of Modvat credit in respect of the same goods on the ground that the manufacturing Unit had not paid any duty on the re-processed goods. We find as the demand in respect of the manufacturing Unit in respect of the same goods is set aside on the ground that processes undertaken by the Paonta Sahib Unit does not amount to manufacture. The denial of credit in respect of the same goods, in view of the earlier order passed by the Tribunal is also not sustainable. In these circumstances, we find no infirmity in the impugned order. The appeal is dismissed.