Bharat Gears Ltd. Vs. C.C.E.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-03-2004

Judge : R K Jeet

Appellant : Bharat Gears Ltd.

Respondent : C.C.E.

Judgement :

1. This appeal by M/s Bharat Gears Ltd. is Directed against the Order-in-Appeal No. KKS (60)60/VI/2001 dated 10.7.01 by which the learned Commissioner (Appeals) has held that appellants have availed and utilized modvat credit for which they are not entitled and has also held that they have contravened the provisions of law and are also liable to penalty and confirmed the Order-in-Original by rejecting the appeal filed by the appellant/assessee.

2. Shri Rajesh Ravindran, learned Advocate appearing on behalf of the appellant submits that in their own case, the issue involved is decided in their favour. In this connection the learned Advocate has invited my attention to the judgment of the Tribunal's Order No.C-IV/240-41/WZB/2003 dated 18.6.03 wherein it. has been held that credit is admissible to them. I have heard the learned JDR also.

3. After hearing both sides and perusing the records I find that this issue is no longer res integra as in the case of same assessee by Order No. C.II/416/WZB/2003 dated 12.3.03 and by Order No.C-IV/240-41/WZB/2003 dated 18.6.03, This Bench has held that credit is admissible to the appellants. Para 2 of

the Order No.C-IV/240-41/WZB/2063 dated 18.6.03 is extracted herein below: "2. The issue in dispute is whether the appellants are entitled to avail of the CENVAT on inputs used in the manufacture of goods in their factory as job workers. Credit was denied on the ground that in terms of Rule 57AD(1) of Cenvat Rules credit shall be allowed on such quantity of inputs which is used in the manufacture of exempted goods and goods manufactured by the appellants on job work basis were exempted in terms of Notification No. 214/86 as amended. 1 find that the issue is no longer re integra as in the case of the same assessee by order No. C.II/416/WZB/2003 dated 12.3.03 the Tribunal has held that credit is admissible to the appellants. The Tribunal has noted its earlier decisions in the case of Bajaj Tempo 1994 (69) ELT 122 and Jindal Polymers v.. C.C.E. 2001 (43) ELT 680. Following the ratio of the above decisions as well as the Tribunal's decision in the case of Shakti Insulated Wires Ltd. v. C.C.E. 2001 (149) ELT 668, which was approved by the Supreme Court as seen from 2003 (151) ELT A 89, I set aside the impugned order and allow the appeal." Respectfully following the judgment of the Tribunal relied upon by the appellant mentioned supra, I allow the appeal and set aside the impugned order with consequential relief, if any, to the appellant.