**insulators and Electricals Co. Vs. Cce**

**insulators and Electricals Co. Vs. Cce**

**SooperKanoon Citation** : sooperkanoon.com/36466

**Court** : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Sep-09-2004

**Reported in** : (2004)(117)LC467Tri(Delhi)

**Judge** : S Kang, Vice

**Appellant** : insulators and Electricals Co.

**Respondent** : Cce

**Judgement** :

1. The appellant filed this appeal against the Order-in-Appeal passed by the Commissioner (Appeals) whereby the benefit of Modvat credit was disallowed in respect of polythene sheet as input on the ground that polythene sheet does not take part in the process of manufacture of final product.

2. The appellants are engaged in the manufacture of Electrical Insulators and contention of the appellant is that these polythene sheets are used to cover the pugs to prevent the loss of moisture and these pugs are not covered with the polythene sheets. Some cracks will appear in these pugs due to loss of moisture. In case there are some cracks in the pugs then they become unsuitable for the manufacture of insulator. The appellant relied upon the Rule 57A during the relevant period to submit that Rule provides where the goods are used in or in relation to the manufacture of final product whether directly or indirectly and whether contained in the final product or not.

3. The contention of the Revenue is that polythene sheets are not used directly in the manufacture of the final product and final product can be produced without use of polythene sheets.

4. I find that the claim of the appellant is that polythene sheet is used to cover the pugs to prevent loss, of moisture and in case the moisture is lost then there will be cracks in pugs. Rule 57A of the Central Excise Rules provides that the credit in respect of the goods used in relation to the specified pugs whether directly or indirectly and whether contained in the final product or not can be utilised towards payment of duty of excise leviable on the final products.

5. The contention of the revenue is that the polythene sheets are used as tools or appliances, therefore, these are excluded from the defination of inputs. The Larger Bench of the Tribunal in the case of Union Carbide India Ltd. v. CCE 17 held that while considering the scope of input held that it also include goods which do not enter directly or indirectly into finished product but are used in any activity concerned with or pertaining to the manufacture of finished goods. The Larger Bench of the Tribunal allowed the benefit, of Modvat Credit in respect of spare parts of machinery under Rule 57A of Central Excise Rules. The Tribunal further held that Stainless Steel Wire Cloth, Wire Mesh and Dandy cloth used as parts in machine or machinery in the manufacture of paper and paper products are eligible inputs and are not excluded by virtue of explanation under Rule 57A of Central Excise Act. In view of the above decision of the Tribunal, the impunged order is set aside and the appeal is allowed.