SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Calcom Vision Ltd. Vs. Cce

Calcom Vision Ltd. Vs. Cce

SooperKanoon Citation : sooperkanoon.com/36550

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-20-2004

Reported in : (2005)(99)ECC176

Judge : A T V.K., P Bajaj

Appellant : Calcom Vision Ltd.

Respondent : Cce

Judgement :

1. The issue involved in this appeal filed by M/s. Calcom Vision Ltd. is whether the benefit of Notification No. 3/2001-CE is available to them in respect of Black & White T.V. sets.

2. Shri B.L. Narasimhan, learned Advocate, submitted that the Appellants manufacture, inter alia, black & white and colour television sets and operate under Modvat Scheme; that the Commissioner under the impugned Order has disallowed the benefit of exemption under Notification No, 3/2001-CE, dated 1.3.2001 on the ground that they were availing the Modvat Credit of the duty there areas many as 240 components which go into the manufacturing of black & white television sets; that number of such common inputs were worked put to approximately 62 to 80; that in accordance with the statutory requirement on receipt of inputs they make entry in RG-23, Part-I; that they also maintain in addition a separate list for the stores, namely, material exchange note/store issue slip, etc. which show the issue/receipt; that the condition of the Notification No.

3/2001-CE, (Srl. No. 262) is that no credit of the duty paid on inputs has been taken; that with a view to comply with the condition of the notification they were at the end of each month worked out corresponding quantity of Modvat Credit on the inputs which had gone into the manufacture of exempted black & white TV. sets and paid the same. He emphasized that in respect of exclusive inputs which have gone into the manufacture of exempted T.V. sets they did not take any Modvat Credit whatsoever. He contended that the very reversal of Modvat Credit amounts to non-taking of Modvat Credit and as such condition specified in Notification is fully satisfied; that this submission is, directly supported by the Supreme Court s judgment in the case of Chanderpur Magnet Wires (P) Ltd. v. CCE, Nagpur, 1996 (81) ELT 3 (SC), wherein it has been held by the Supreme Court that the assessed can make debit entry in the credit account before removal of the exempted final product and in such a situation it cannot be said that the assessee the Tribunal in the case of Surya Roshni Ltd. v. CCE, Noida, 2004 (163) ELT 270 (Tri).

3. Countring the arguments Shri S.C Pushkarna, learned DR reiterated the findings as contained in the impugned Order and emphasized that as at the time of receipt of the inputs meant for the manufacture of black & white television sets the Appellants have taken the Modvat Credit the condition specified in the Notification has not been complied with and accordingly the benefit of the Notification will not be available to the Appellants.

4. We have considered the submissions of both the sides, Srl. No. 262 of Notification No. 3/2001-CE provides a concessional rate of duty in respect of Monochrome Television Receiver subject to the condition that no Credit of the duty paid on inputs or capital goods exclusively used in the manufacture of these goods have been taken. The facts which are not in dispute are that the Appellants have availed the Modvat Credit of the duty paid in respect of certain inputs which have gone in the manufacture of black & white television sets at the time of their receipt into the factory. It has been contended by the learned Advocate that at the time of payment of duty they were reversing the Modvat Credit of the duty paid on inputs which have gone in the manufacture of black & white television sets. In support of their contention they have produced also proof of such reversal of Credit.

Moreover the Revenue has also not controverted this contention made by the learned Advocate.

In view of the fact that the Modvat Credit initially taken by them in respect of inputs which are common for the manufacture of both the colour television sets and black & white television sets and which has been reversed at the time of payment of duty will amount non-taking of Modvat Credit of the duty paid on inputs used in the manufacture of black & white television sets. The Appellate Tribunal in the case of Surya Roshni Ltd. (supra) as held as under: "It has been held by the Supreme Court in the case of Chandrapur Magnet Wires that "we see no reason why the assessee cannot make debit entry in the credit account before removal of the exempted final product. If this debit entry is permissible to be made, credit entry for the duties paid on the inputs utilized in manufacture of the final exempted product will stand deleted in the accounts of the assessee. In such a situation, it cannot be said that the assessee has taken credit for the duty paid on the inputs utilized in the manufacture of the final exempted product under Rule 57A. In other words the claim for exemption of duty on the disputed goods cannot be denied on the plea that the assessee has taken credit of the duty paid on the inputs used in the manufacture of these goods." The Supreme Court has referred to Board's Circular in which it was clarified by the Ministry of Finance that the manufacturer may be allowed to take the credit of the duty paid on all inputs used in the manufacture of the final product, provided that the credit Of duty paid on the inputs used in the exempted products is debited in the credit account before the removal of such exempted final products. The learned Advocate has clarified that the reversal of the Modvat credit was done on fortnightly basis since during the relevant period duty payment on the final product was done on fortnightly basis. As undisputedly the Modvat credit taken on the inputs which has gone in or in relation to the manufacture of the impugned bulbs stands reversed, the condition of the Notification No. 3/2001-CE has been complied with. We, therefore, set aside the impugned Order and allow the appeal." 5. Thus following the decisions of the Supreme Court in the case of Chandrapur Magnet Wires Ltd. and Surya Roshni Ltd. we hold that the condition stipulated in Notification No. 3/2001-CE (Sri. No. 262) has been complied With as the Modvat Credit taken on the inputs which have gone in or in relation to the manufacture of black & white television sets stands

reversed. We accordingly set aside the impugned Order and allow the appeal.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com