Cce Vs. Stainless India Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-28-2004

Reported in : (2004)(117)LC572Tri(Delhi)

Judge : M T K.C.

Appellant : Cce

Respondent : Stainless India Ltd.

Judgement :

1. This appeal is filed by the Revenue against the order of the Commissioner (appeals).

2. The respondents are manufacturers of M.S. ingots, slabs and billets etc. falling under Chapter 72 of the Central Excise Tariff Act. They were availing modvat credit on asbestos yarn and texti packing. They were denied modvat credit on asbestos yarn and texti packing under heading "capital goods". But on appeal, when the case was remanded back by the Tribunal to the Commissioner (appeals) to examine the same as inputs; Under the impugned order, the Commissioner (appeals) allowed the credit on asbestos yarn and taxti packing as inputs under Rule 57A of the Rules.

3. Shri Randhir Singh, learned JDR appearing for the Revenue pleaded that asbestos/texti is not used in the manufacture of final products but it is used as wrapping on the pipe lines carrying gases. He therefore pleaded that these do not

take part in or in relation to the manufacture of final product and, therefore, the order of Commissioner (appeals) is not correct in allowing the credit on asbestos/texti as inputs.

4. Shri O.P. Agarwal, learned C.A. appearing for the respondents pleaded that asbestos/texti is used for wrapping pipe line so that the pipe line does not burst when the gases at high pressure pass though it. He stated that this item is fully covered by the definition of inputs as these are used in or in relation to the manufacture of final product. He said that although this is not directly participating in the process under Rule 57A for being eligible to credit it is not necessary that inputs are directly participating in the process or it should be contained in the finished product. The inputs which is indirectly taking part in the process of manufacture is also eligible for modvat credit under Rule 57A of the Rules. He relied on the Larger Bench decision of the Tribunal in the case of Union Carbide India Ltd. v. CCE Calcutta-I 1999 (66) ECR 172 (T-LB) He also relied on the following case law in support of his pleadings:CCE Bangalore v. Escorts Mahle Ltd. 2003 (56) RLT 245 (SC) : 2003 (108) ECR 631 (SC)Bazpur Cooperative Sugar Factory Ltd. v. CCE Meerut-II. 2003 (55) RLT-39 (CEGAT-Del.) : 2003 (108) ECR 145 (T)Oswal Steels v. CCE New Delhi.

6. I find that the Commissioner(appeals) in his order has given the finding that asbestos/texti has been used for wrapping pipe line which are used for carrying gases during their manufacturing process. These goods have indirect participation in the process of manufacture and, therefore, can be held to have been used in relation to the manufacture of the final product. I find that the Commissioner (appeals) has given correct findings and following the ratio of the decision of the Larger Bench of the Tribunal in the case of Union Carbide India Ltd. v. CCE Culcutta-I (Supra) and the other decisions relied on by the respondents, I find no merits in the appeal of the Revenue. The same is accordingly rejected.