

**Cce Vs. Apr Packaging Ltd.**

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

**Decided On :** Sep-28-2004

**Reported in :** (2005)(191)ELT395Tri(Mum.)bai

**Judge :** A M Moheb

**Appellant :** Cce

**Respondent :** Apr Packaging Ltd.

**Judgement :**

1. The issue to be decided in this case is whether input, viz. alum, on which credit was availed by the respondent and which was used in the water treatment plant situated adjacent to the factory premises would be chargeable to duty and whether the invocation of extended period and imposition of penalties under Section 11 AC of the Central Excise Act, 1944 as well as under Rule 173Q of the erstwhile Central Excise Rules is correct and proper. The Commissioner (Appeals) in the impugned order held that the process of water treatment is an ancillary process in the manufacture of paper and thus Modvat availed on alum used in the water treatment plant is admissible. The Revenue is in appeal against this order. The contention of the Revenue is that credit taken on alum should have been reversed when it is removed for water treatment because such a water treatment plant is not within the precincts of the factory and since the respondent has not done so, the credit taken on alum is not admissible. Amravathy Co-op. Sugar Mill Ltd. v. CCE, Coimbatore, 2002 [150] ELT 449, the Tribunal held that sugar and distillery plants situated nearby having consolidated balance sheet, assessed as one unit

for income-tax purposes, covered by single central excise registration and having common water, electricity etc. are to be considered as one factory. The Tribunal also relied on the CBEC instruction vide F.No.10/02/69-CX dated 12.5.1971 while coming to this conclusion. In the present case, the water treatment plant and the factory manufacturing paper are situated in the same compound albeit divided by a service road. I observe that there is no need to reverse the credit taken on alum when it is removed for use in water treatment plant situated in the factory premises.

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