Jct Ltd. Vs. C.C.E.

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SooperKanoon Citation : sooperkanoon.com/36799

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-13-2004

Judge : N T C.N.B.

Appellant : Jct Ltd.

Respondent : C.C.E.

Judgement :
1. The dispute in this appeal is about the eligibility of storage tank of modvat credit as capital goods. The storage tank in question stores acid in which process of annealing is carried out. The appellant's contention is that the tank is an accessory and is eligible for modvat credit in terms of Explanation 1 (d) to Rule 57Q. Learned Counsel for the appellant has relied on the decision of the Tribunal in the case of C.C.E., Belgaum v. Industrial Oxygen Co. Ltd., 2004 (64) RLT 485 in support of the claim. As against this, the Revenue has relied on the decision of the Tribunal in the case of C.C.E., jaipur v. Guljag Industry Ltd., 2003 (157) ELT 302. However, learned Counsel for the assessee has submitted that the Tribunal's decision in the case of Industrial Oxygen Co. Ltd. is to be followed inasmuch as that decision distinguished the decision in the case of Guljag Industry ltd. and was rendered in the light of the Larger Bench decision of this Tribunal in the case of C.C.E., Indore v. Surya Roshni, 2. Facts in the present case are similar to the case of industrial Oxygen Co. Ltd., The issue remains covered in favour of the appellant by the Tribunal's decision in the case of C.C.E., Belgaum v. Industrial Oxygen Co. Ltd. The tank in question directly takes part of production.

It is a vital accessory. Credit is available. The appeal is allowed after setting aside the impugned order.