

**Heg Ltd. Vs. Commissioner of Central Excise**

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

**Decided On :** Oct-27-2004

**Reported in :** (2005)(184)ELT157TriDel

**Judge :** S Kang, Vice-, N T C.N.B.

**Appellant :** Heg Ltd.

**Respondent :** Commissioner of Central Excise

**Judgement :**

2. The appellant filed this appeal against the order- in-appeal passed by the Commissioner (Appeals) whereby the Commissioner (Appeals) rejected the claim of the appellant in respect of the interest.

3. Brief facts of the case are that the appellants are engaged in the manufacture of graphite electrodes and they were importing the inputs under the Value Based Advance Licence Scheme governed by Notification No. 203/92-Cus., dated 19-5-1992. The assessee made import inputs without payment of customs duties subject to the condition that no Modvat credit will be availed in respect of inputs used in the manufacture of export products. The appellant availed the benefit of Modvat credit in respect of the inputs used in the goods which were exported. There were lot of disputes in this regard where manufacturer were availing Modvat credit wrongly in violation of the provisions of Notification No. 203/92-Cus., and Central Govt. issued amnesty scheme vide Circular No. 285/1/1997-CX, dated 10-1-1997 and allowed exporters to reverse the credit wrongly taken along with

interest. The appellant availed the benefit of addition and reversed the credit along with interest. Thereafter the appellant filed a refund claim in respect of excess reversal of the Modvat credit. The refund claim was allowed by the Commissioner (Appeals) but no interest claimed by the appellant was allowed.

4. The contention of the appellant is that the refund claim was considered under Section 11B of Central Excise Act, therefore, they are entitled for the interest on the amount of refund under Section 11BB of the Customs Act.

5. We find that it is not a case of refund of duty paid in excess. The appellant wrongly taken the credit in violation of the conditions of the Notification No. 203/92-Cus., and after considering the hardship of the manufacturers, the Government issued amnesty scheme to end the disputes on the condition that manufacturer will reverse the credit along with interest. This scheme was adopted by the appellant and in such situation when excess amount of Modvat credit paid under the amnesty scheme is being recredited to their account, we find no infirmity in the impugned order. The appeal is dismissed.

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