Uni Deritend Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-14-2004

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

Appellant : Uni Deritend Ltd.

Respondent : Cce

Judgement :
2. The appellant filed these appeals against common Order-in-Appeal passed in pursuance to the remand order passed by the Tribunal. The brief facts of the case are that the appellants are engaged in the manufacture of castings and they were availing the Modvat credit in respect of inputs used in the manufacture of moulds. The input credit was objected by the Revenue and different show-cause notices were issued for denial of the credit in respect of inputs used in the manufacture of moulds. From 1988 to 1992 the applicant had not taken any credit in respect of inputs used in the manufacture of moulds.

Thereafter, the applicant filed an application under Section 57H of Central Excise Rules for taking credit for the period 1988 to 1992 and suo motu taken the credit in the year 1994. The Revenue issued a show-cause notice for rejection of the claim of the appellant under Rule 57H of Central Excise Rules. The adjudicating authority confirmed the demand and imposed penalty in pursuance to the adjudication order.

The appellant deposited the amount in question on 26.10.95 and appellants also challenged the order passed by the Commissioner (Appeals) in this respect denying the benefit of Rule 57H of Central Excise Rules, before the Tribunal and the Tribunal vide Final Order No.C-II/731/WZB/2001 dated 19.3.01 held that the appellants are entitled for the credit of the inputs for the period 1988 to 1992 under Rule 57H subject to verification of the receipt of the utilization of the inputs in the manufacture of final product. In pursuance to the order passed by the Tribunal, the appellant also filed a refund claim in respect of the amount deposited by them. In the impugned order the refund claim as well as the consequential relief in pursuance to the Final Order passed by the Tribunal was rejected. In the impugned order the Commissioner (Appeals) held that the appellant failed to produce the receipt and proof regarding the actual use of inputs in the manufacture of final product.

3. The contention of the appellants is that they produced the relevant GP-1 as well as invoices regarding the receipt of the inputs and duty paid in respect of these inputs. The appellant also produced all the issue slips to show that the inputs are issued for the manufacture of final product and this evidence is not rejected by the Revenue. The contention is that the issue receipts shows that the inputs were used in the manufacture of final product, they are entitled for the credit and there is no need to produce production slips to show the movement of the inputs. The contention of the Revenue is that the appellant failed to produce the relevant record showing the receipt of the inputs in the factory and their actual use in the manufacture of final products.

4. We find that the Tribunal in the Final Order dated 19.3.01 allowed the benefit of Modvat credit in respect of the inputs used in the manufacture of moulds during the period 1988 to 1992. This order is not challenged by the Revenue and the matter was remanded to the adjudicating authority to verify the receipt of the inputs and their use in the manufacture of final product during the period in dispute.

The appellant produced GP-1 and invoices showing the payment of the duty on the inputs and also produced the material, issue slips showing that material was issued for the manufacture of final product. These evidences are not rejected by the Revenue. However, the claim was rejected on the ground that the evidence regarding payment of octroi was not produced by the appellant and after issuance of inputs for manufacture the evidence how the inputs are used in the manufacture of final product is also not produced. We find that as the benefit of Modvat credit was allowed by order dated 19.3.01 and in pursuance to this order the appellant produced evidence regarding the payment of duty and receipt of the inputs in the factory and by way of producing the issue slips to show that the inputs were used in the manufacture of final products. This evidence is not doubted by the Revenue. In these circumstances, we find that the impugned order is not sustainable therefore is set aside. The appeals are allowed.