

**Commissioner of Central Excise Vs. Vintron Electronics P. Ltd.**

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

**Decided On :** Dec-29-2004

**Reported in :** (2005)(182)ELT218TriDel

**Judge :** M T K.C.

**Appellant :** Commissioner of Central Excise

**Respondent :** Vintron Electronics P. Ltd.

**Judgement :**

1. The Revenue has challenged the order of the Commissioner (Appeals) on the ground that it was wrongly held by him that the delivery note containing all the particulars is necessarily an invoice issued under Rule 52A which is a specified document under Rule 57G(3) of the Central Excise Rules, 1944. Shri P.M. Rao, learned JDR appearing for the Revenue stated that the delivery note was an invalid document as the same has not been prescribed under Modvat Rules. Rule 57G(2) clearly mentions that no credit shall be taken unless the inputs are received in the factory under cover of the documents as specified. The Commissioner (Appeals) has also not given finding that what were the details available in the delivery challan on the basis of which credit was taken.

2. Shri R. Pal Singh, learned Consultant appearing for the respondents pleaded that under explanation to Rule 52A of the Central Excise Rules, 1944 the term 'invoice' means assessee's own documents such as invoice challans, advice or other document of similar nature generally used for sale or removal of excisable

goods and which shall contain all the particulars as required under the said Act or in these rules are valid documents for taking credit. I find that the Commissioner (Appeals) has already given the finding that in the delivery note all the required particulars are given. Once the duty paid nature of the goods received and used by the respondents is not disputed and all the particulars required are given in the delivery note, question of denial of credit does not arise. Therefore, the order of the Commissioner (Appeals) is correct in law and it does not require any interference. Accordingly, the appeal of the Revenue is rejected.

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