

Orient Paper Mills Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-11-2005

Reported in : (2005)(99)ECC428

Judge : S Kang, Vice

Appellant : Orient Paper Mills

Respondent : Cce

Judgement :

1. Heard both sides. In this case the benefit of Modvat credit as capital goods in respect of Pressure Transmitter is denied to the appellant. The contention of the appellant is that these capital goods are entitled for the benefit of credit.
2. The contention of the Revenue is that as per the statement showing the detailed use of the pressure transmitter, it is mentioned that it is classifiable under Heading 9026/9033 and it is specifically mentioned that it is used as spare parts of Electrical Panels to control the current. Heading 9026 of Tariff covers the instruments and apparatus for measuring or checking the flow of liquids or gases, therefore, this instrument is not to control the voltage of current.
3. In this case the appellants are claiming the benefit of Modvat credit in respect of Pressure Transmitter classifiable under Heading 90.26/90.33 of Central Excise Tariff. Heading 90.26 or 90.33 of Central Excise Tariff is not covered under the definition of capital goods as provided under Rule 57Q during the relevant period.

The appellant claimed as part of electrical panel. The Pressure Transmitter, as per the statement showing the detailed use, are classifiable under Heading 90.26/90.33 of Central Excise Tariff. Tariff Heading 90.26 covers the instruments which are used for measuring the liquid or gases and 90.33 covers the parts of these instruments. Therefore, the statement of the appellant is that this used as part of electrical panel does not appear to be correct statement. As the appellant failed to prove the actual use of this transmitter, therefore, I find no infirmity in the impugned order. The appeal is dismissed.

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