Cce Vs. Hero Cycles Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-12-2005

Judge : P Bajaj, M T K.C.

Appellant : Cce

Respondent : Hero Cycles Ltd.

Judgement :

1. In this appeal, the Revenue has contested the correctness of the impugned order-in-original, dropping the recovery of the modvat credit, against the respondents 2. We have heard both sides. The Revenue has sought to deny the modvat credit to the respondents on the goods in question on the ground that these were inputs and the credit should have been taken as such and not by treating the same as 'Capital Goods'.

3. On the other hand, the plea of the respondents had been that, the goods in question are parts of the capital goods and they had rightly taken the credit on the goods as such. They had also taken the plea that the demand is time-barred as the extended period could not be invoked.

4. We have gone through the record and we find that there is no tangible evidence to substantiate the stand of the Revenue. The goods in question could not be said to be inputs as the same were parts of the Capital Goods installed in the factory premises of the respondents.

The respondents had even filed the declaration, declaring the goods as parts of the Capital goods, before availing the modvat credit. The learned Commissioner in the impugned order has recorded detailed reasons for holding the goods as parts of the Capital Goods, and we do not find any sufficient ground to disagree with his findings.

4A. Similarly, the learned Commissioner, in our view, has rightly disallowed the invocation of the extended period of limitation. The credit was availed by the respondents in the year 1998 and due intimation was given to the Department as they had filed the declaration as well as the RT-12 returns, whereas the show cause notice was issued only on 12.3.2001. Since the respondents had not suppressed any material facts from the Department, the extended period of limitation, could not be legally invoked. We are in full agreement with the findings recorded by the learned Commissioner that the demand is time-barred.

5. In view of the discussion made above, the impugned order of the Commissioner is upheld and the appeal of the Revenue stands dismissed.