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Ranutrol Instrumentation Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-20-2005

Reported in : (2005)(188)ELT36TriDel

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

Appellant : Ranutrol Instrumentation Ltd.

Respondent : Cce

Judgement :

2. Applicants filed this application for waiver of pre-deposit of duty of Rs. 7,36,345/- ad penalty of the equal amount. In this case applicants are engaged in the manufacture of Electrical Equipment and were availing the benefit of MODVAT credit in respect of the inputs used in the manufacture of final product and are paying duty from their credit assessee. With effect from 01.04.97, applicants opted out of the MODVAT Scheme and started availing the benefit of Notification No.16/97/-CE dated 1.4.97 and started clearing goods at Nil rate of duty.

3. Revenue raised demand in respect of the credit of duty in is lying in stock. The contention of the Revenue is that as applicants started clearing goods at Nil rate of duty w.e.f. 1.4.97 therefore, the credit in respect of the inputs lying in stock is to be reversed.

4. The contention of the applicants is that on 1.4.97, there was no balance in their credit amount. The credit already availed is fully utilized for payment of duty.

Applicants relied upon the decision of the Larger Bench of the Tribunal in the case of Commissioner of Central Excise Rajkot v. Ashok Iron & Steel Fabricators, reported in 2002 (140) ELT 277 (Tri-LB). The applicants also submitted that appeal filed by the Revenue is dismissed by the Hon'ble Supreme Court reported in 2003 156 ELT A-212.

5. Revenue relied upon the decision of the Tribunal in the case of Jyoti Cement Spun Pipe Works and Anr. v. CCE, Belgaum, reported in 2004 65 RLT 832 (CESTAT-Ban.)Jyoti Cement Spun Pipe Works and Anr. v. CCE, Belgaum (supra) is not helpful to them as the Tribunal in this case is considering the provisions of Rule 57H of the Central Excise Rules, whereas the present provisions are under Rule 57-C (1) of the Central Excise Rules. We find that Prima Facie, in view of the Larger Bench decision of the Tribunal, applicants had a strong case in their favour. The Larger Bench of the Tribunal held that the credit availed and utilized during the period when final product is dutiable, such credit not to be reversed when subsequently the final product is exempted from duty. In these circumstances, the pre-deposit of whole of the duty and penalty is waived for hearing of the appeal.

The Stay Petition is allowed.

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