

Exide Industries Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-20-2005

Reported in : (2005)(188)ELT533Tri(Mum.)bai

Judge : A Wadhwa, A M Moheb

Appellant : Exide Industries Ltd.

Respondent : Cce

Judgement :

1. The appellants are engaged in the manufacture of "Electric Storage Batteries" classifiable under chapter 85 of the CETA, 1985. Two types of storage batteries are being manufactured by the appellants. Dry charge batteries are meant for replacement market and the other types are meant for the original equipment manufacturers. The appellants cleared uncharged batteries to their job workers in terms of the provisions of Rule 57F(4) for the purpose of charging the same. At the time of clearance of the uncharged batteries to their job workers, they were debiting 10% of the value of the goods in their modvat account, in terms of the provisions of Rule 57F(6). Subsequently, on receipt of the charged batteries from their job workers, such debit entry made in their modvat account was being cancelled.

2. The Revenue took a view that charging of the batteries does not amount to emergence of a new product and, as such, the appellant was not entitled to remove the uncharged batteries under Rule 57F(4). As such, they were not

entitled to reverse back the modvat credit, which they had debited at the time of clearance of the uncharged batteries.

The above view was based upon the reasoning that there is basically no difference between the charged and uncharged batteries and by applying the interpretative rules, uncharged battery itself was a complete product classifiable under heading 85.07. However, it may be clarified here that the appellants after receipt of the charged batteries from their job workers was clearing the same by paying Central Excise duty on the value of the charged battery itself i.e inclusive of cost of charging.

3. We do not find any justifiable reasoning in the above view of the revenue. If the provisions of Rule 57F(6) were not available to the appellants on the ground that uncharged battery itself was a complete product, there was no question of debiting modvat account at the time of clearance of the uncharged batteries from their factory.

Surprisingly, the impugned orders disallowed the reversed entry made by the appellants at the time of receipt of the charged batteries in their factory, but is silent about the debit entry made by the appellants at the time of clearance of the same from their factory.

4. The appellants having first debited the amount at the time of sending the goods to their job workers and subsequently having credited the same after receipt of the goods from the job workers factory, the entire exercise can be safely concluded as revenue neutral. The view adopted by the authorities below for confirming huge demand of duty of Rs. 1,23,43,531/- and imposing penalty upon the appellant is neither justified nor warranted. Accordingly, we set aside the impugned order and allow the appeal with consequential relief to the appellants.

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