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Commissioner of Central Excise Vs. Bridgestone (Acc) India Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-17-2005

Judge : S Kang, Vice-

Appellant : Commissioner of Central Excise

Respondent : Bridgestone (Acc) India Ltd.

Judgement :

1. Heard both sides. The revenue filed this appeal against the Order-in Appeal whereby the benefit of Modvat credit in respect of Lathe Machine/welding machine/drilling machine is allowed by Commissioner (Appeals).

2. The only contention of the Revenue is that the Tribunal in the case of National Steel Inds. Ltd. v. CCE Indore reported in 2002 (149) E.L.T. 735 held that credit in respect of Lathe Machine as capital goods is not admissible.

3. The contention of the Revenue is that in respect of welding machine and drilling machine as these are not used in or in relation to the manufacture of the final product, therefore, credit is not available.

4. In respect of Lighting arrester, the contention is that the Tribunal in the case of Shriram Vinyl & Chemical Inds. v. CCE held that Modvat credit as capital goods in respect of Lighting arrestor is also not available.

5. The contention of the respondent is that the period in dispute is from July to Aug. '98 and during this period, the definition of capital goods provides that the

specified goods mentioned in the table which are used in the factory of the manufacture of final product are entitled for the benefit of capital goods.

6. The contention is that Lathe machine is classifiable under Heading 8458 and similarly, the lighting arrestor is classifiable under heading 8535 of Central Excise Tariff and these tariff headings are covered under the table whereby the description of capital goods is given and these are used in the factory of the manufacture.

7. The contention of the respondent is that case law relied upon by the revenue is in respect of the definition of capital goods which was prevalent at the relevant time and at that time, the definition of capital goods was machinery, plant and accessories thereof and the Tribunal in the decision held that goods in question are not parts of plant, machinery and are not used in the manufacture of final product.

8. In this case the respondents availed the credit during the month July-Aug., 98 and as per the definition of capital goods during this period, the specified goods used in the factory are entitled for the credit. The Revenue is not disputed that the tariff headings under which these goods are falling, are covered under the specified goods mentioned in the table as provided under Rule 57Q of Central Excise Act. The case law relates to the previous period when the definition of capital goods was different and the goods such as plant, machinery etc.

which are used in or in relation to the manufacture of final product are eligible for the benefit of capital goods. In these circumstances, I find no infirmity in the impugned order. The appeal is dismissed.

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