

Commissioner of Central Excise Vs. Jct Electronics Limited

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jun-17-2005

Reported in : (2005)(192)ELT538Tri(Mum.)bai

Judge : J Balasundaram, Vice, A M Moheb

Appellant : Commissioner of Central Excise

Respondent : Jct Electronics Limited

Judgement :

1. The Revenue challenges the order of the Commissioner (Appeals), who has held that the respondents herein are eligible to capital goods credit under Rule 57Q of the Central Excise Rules on (a) decofoam, (b) Air Handling Unit, (c) Dust Collector, (d) Liquid Chiller etc.

2. We have heard both sides. We find that Decofoam and air Handling Unit have been rightly held to be capital goods, as they are used to create dust free environment to maintain the plant in condition for manufacture of final products by the respondents, following the ratio of the Tribunal's order in the case of Mahindra & Mahrindra Ltd v. CCE, Aurgangab-1996(65) ELT 71. As regards Dust Collector, it reduces the dust available in the Getter Welding Area and the entire area to reduce dust particles. From the above, it has been rightly held that it is essential to the manufacture of colour picture tube by the respondents and it would be covered by the definition of capital goods. As regards Liquid Chiller, it is a machine, which produces chilled water, which is supplied to the air-handling unit to maintain

process area conditions of temperature and humidity and chilled water is also used in exchangers for process water supply. The objection of the Revenue is to the extension of credit on these items is for the reason that in the case of Shanmugaraja Spinning Mills Pvt. Ltd. v. CCE, Coimbatore and CCE, Coimbatore v. Titan Industries Ltd, the Tribunal had held that Humidification Plant, Air Conditioners required to provide certain desired environment for manufacture of goods are not capital goods eligible to credit for the reason that they do not have any nexus for bringing about any changes in the substance goods. The other ground of objection to the credit being extended on Liquid Chiller is that the Liquid Chillers were received in the factory of the respondent prior to 23/7/96 and therefore, not entitled to credit as per Rule 57Q2(ii)(i) which provides that no credit of the specified duty paid on capital goods (other than those capital goods in respect of which credit of duty was allowable under any other rule or notification prior to 23/7/96. However, the objection of the Revenue cannot be sustained for the reason that the decisions relied upon by them are no longer good law in the light of the larger bench decision in the case of Jawahar Mills Ltd v. Commissioner of Central Excise, Coimbatore - 1997 (108) ELT 47, which has been upheld by the Apex Court and for the reason that the goods falling under sub-heading 84.18 (under which heading liquid chiller falls) was excluded from the coverage of credit as capital goods only from July 1996 while in the present case there is no dispute that liquid chiller and other two items were received prior to 23/7/96 and it has been held by the Tribunal in case of Shri Srinivas Frozen Foods v. Commissioner of Central Excise, Hyderabad - 2002 (149) ELT 604 that the date of receipt is relevant for the purpose of determination of eligibility to credit under Rule 57Q.3. In the light of the above discussions, we hold that there is no reason to interfere with the order of the Commissioner, We accordingly, agree with the same and reject the appeal. The cross objection filed by the respondents are disposed of accordingly.

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