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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jul-07-2005

Judge : S T C.

Appellant : Ghcl Ltd.

Respondent : Commissioner of Central Excise

Judgement :
1. Heard both sides. The issue involved is admissibility of modvat credit on welding electrodes used for repair and maintenance of the machinery and pipe lines. The learned advocate for the appellants has cited the following decisions in support of the appellant's claim that credit is available to welding electrodes:- 1) C C E Meerut v. U P State Sugar Corporation - 2002 (147) ELT 983 (Tri.Del.)Manikgarh Cement v. C C E Nagpur- 2003 (159) ELT 1120 (Tri.-Mumbai)
2. I find that the decisions at 1 & 2 above relate to welding electrodes, the first one has been passed by a single Member Bench whereas the second one has been passed by a division Bench relying on the Larger Bench decision in the case of C C E v. Modi Rubber Ltd. - 2000 (119) ELT 197 (Tribunal). I find that the decision in the case of Modi Rubber Ltd (supra) relates to lubricating oil and greases used in the machinery for production of cement. On other other hand, the learned D R has relied on subsequent decision of Larger bench in the case of Jaypee Rewa Plant v. C C E Raipur - 2003 (159) ELT 553 (Tri.LB) which is directly on welding electrodes used in repair and maintenance of machinery and which denies modvat credit to such goods. The Commissioner (Appeals) has also referred to two

Tribunal decisions in the case of C C E v. Panyam Cements & Minerals Indus. Limited - 2003 (160) ELT 278 (Tri.Bang) and M/s. Zuari Cement Limited v. C C E - 2003 (160) ELT 670 (Tri.Bang.) in the impugned order. In both these cases, Larger Bench decision in the case of Jawahar Mills has been considered alongwith the decision in the case of Bellary Steels & Alloys Ltd. to come to the conclusion that welding electrodes used for repair of machinery cannot be given modvat credit as capital goods. Under the circumstances, I am of the view that the Commissioner (Appeals) has taken a correct decision to deny modvat credit to welding electrodes.

His decision, therefore, does not require any interference. The appeal is dismissed. The stay application as stands disposed it.