

Punjab Alkalies and Chemicals Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-04-2005

Judge : S Kang, Vice-

Appellant : Punjab Alkalies and Chemicals

Respondent : Cce

Judgement :

2. Appellants filed this appeal against the order in appeal passed by the Commissioner (Appeals) whereby benefit of MODVAT credit as capital goods was disallowed in respect of the CI sluice Gate, Loudspeaker with Amplifier, Fire Extinguisher, Sequence Card/Flasher Card, Weather Proof Cell Point and Bushing. The contention of the appellants is that during the relevant period the definition of capital goods under Rule 57Q of the Central Excise Rules covers plants and machinery used in or in relation to the manufacture of final product and parts thereof. The contention is that CI Sluice Gate is part of the Effluent Treatment Plant. The appellants manufactured the Sluice Gate and the effluent treatment plant is necessary for manufacturing the final product and it is a part of the plant. The appellants relied upon the decision of the Hon'ble Supreme Court in the case of Indian Farmers Fertiliser Coop.

Ltd. v. CCE, Ahmedabad, Hon'ble Supreme Court allowed the benefit of MODVAT credit in respect of pollution control equipment. In respect of the other items such as Loudspeaker with Amplifier, Fire Extinguisher, Sequence Card/Flasher Card, Weather Proof Cell Point and Bushing. The contention is that these are essential

parts of the plant, therefore are entitled for the benefit of the capital goods.

3. The contention of the Revenue is that goods in question are not component, spare parts or accessories of machine and machinery or plant used in the manufacture of the final product. Therefore, are not entitled for credit. The appellants want to take credit in respect of the goods in question. Therefore, appellants are to prove that the goods in question are machines, machinery and plants etc. used for producing or processing of any goods for the manufacture of final product or these are components, spare parts of such machines and machinery, I find that CI Sluice Gates are parts of Effluent Treatment Plant which is pollution control equipments. Hon'ble Supreme Court in the case of *Indian Farmers Fertiliser Coop. Ltd. v. CCE, Ahmedabad (supra)* held that pollution control equipments used in a plant have to be treated part and parcel of the manufacture plant for the production of end-product. In view of the above decision by the Hon'ble Supreme Court CI Sluice Gate being part of the effluent treatment plant are entitled for the credit as capital goods. In respect of the other goods, the appellants had not produced any evidence to show how these, are components, spare parts or accessories of the plant and machinery which is used in or in relation to the manufacture of the plant.

Therefore, the credit was rightly denied. Keeping in view of the facts and circumstance of the case as the issue involved in this case is in respect of interpretation of Rule 57Q of the Central Excise Rules, the penalty is set aside. Appeal is disposed of as indicated above.

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