

**Girdharilal Sugar and Allied Vs. Cce**

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**SooperKanoon Citation :** [sooperkanoon.com/40006](http://sooperkanoon.com/40006)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Aug-17-2005

**Judge :** P Bajaj

**Appellant :** Girdharilal Sugar and Allied

**Respondent :** Cce

**Judgement :**

1. In these appeals which have been preferred against two orders-in-appeals as detailed above, the issue relates to the denial of Modvat credit to the appellants on the goods detailed therein.
2. The appellants are engaged in the manufacture of the sugar and molasses. The Modvat credit has been denied to them on disputed goods on the ground that the same do not fall within the definition of 'capital goods' under Rule 57Q. Ld. DR has contended that the goods in question are only structures embedded to earth and do not form part of any machine and machinery, therefore, no credit is admissible on the same to the appellants.
3. On the other hand. Ld. Counsel has argued that all the goods in question had been used in or in relation to the capital goods installed in the factory, by the appellants for the manufacture of the sugar and molasses These goods are to be taken as part of the machines and machinery.

4. I have gone through the record. The goods/items involved in Appeal No. E/3113/04 are: RBC Structure, Boiler Material Fixture, Holders, Structure for Cane leveller, Centrifugal Machine Structure, Sugar Machine Structural Material, Boiler Machine Fixture and Holder, Boiler FW Tank Structure Holder, Boiler Machine DWS Tank Structure (7308.90), Iron & Steel (CTD bar), Tested Brass rods (7214.90), Chequered Plates and MS Chequered Plates (CH 7208).

CTD Bars (S. No. 10), Structure for centrifugal machinery (S. No. 14), Beams for centrifugal machinery (S. No. 15), structure for pan syrup, Molasses Tank etc. (S. No. 20) and Beams/Structures (S. No. 21).

5. All these goods as is evident from the chart submitted by the appellants along with the appeals have been, utilised in or in relation to the machines and machinery installed in the factory. Some of these items have been used for supportingly capital goods i.e. machines and machinery and some in the erection of technological structure for the boiler and other material handling machines participation at various stages in the manufacture of sugar and molasses. None of the items had been used purely for raising the civil structures in the factory premises. Keeping in view the use of the goods/items in question, the appellants are entitled to Modvat credit. Their case stands covered by the ratio of law laid down in the case of Mukund Ltd. v. CCE, Belgaum , Bellary Steel and Alloys Ltd. v. CCE, Belgaum , Perambalur Sugar Mills Ltd. v. CCE, Bhopal , wherein MS Plates, Structures, conveyers, H.R. Sheets, angles, channels, joists, rounds etc. used in fabrication and erection of technological structures, for maintenance of the boilers have been held to be capital goods eligible for Modvat credit.

In Simbhaoli Sugar Mills Ltd. v. CCE, Meerut reported in 2001 (135) ELT 1239, joint, channels, angles, rolled and welded pipes, chequered plates and ITR Plates had been held to be capital goods eligible for credit. This judgment of the Tribunal had been approved by the Apex Court by dismissing the appeal of the revenue, as is evident from reporting in 2002 (139) ELT A.294.

6. In the light of the discussions made above, the impugned orders in both the appeals are set aside. The appeals of the appellants are allowed with consequential relief as per law.

