

India Glycols Limited Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-25-2005

Reported in : (2004)(176)ELT290TriDel

Judge : S Kang, Vice-

Appellant : India Glycols Limited

Respondent : Cce

Judgement :

1. When the case was called none appeared on behalf of the appellant in spite of notice. A copy of the notice was also issued to the Consultant of the appellant. In these circumstances, the appeal is being taken up in absence of the appellant.
3. The appellant filed this appeal against the order in appeal passed by the Commissioner (Appeals) whereby the benefit of MODVAT credit was denied in respect of the Iron and Steel products such as MS Angles and Bitumen, components and parts etc.
4. The contention of the appellant in the appeal memorandum is that Iron and Steel products are used in the fabrication work. The bitumen is used for waterproofing in foundation and the components parts are of electrical items and are used at various places for electric control functions.
5. The contention of the Revenue is that the capital goods as per the definition of Rule 57Q of the Central Excise Rules, 1944 are machines and machinery used in

the manufacture of final product or the parts, spare components and accessories of plant and machinery, the goods in question are not part, accessory or spares of any machines or machinery. Therefore, the credit was rightly denied.

6. The only contention of the appellant is that the goods are used for fabrication purpose and for waterproofing. Therefore, iron and steel products and bitumen are not entitled for the benefit capital goods.

The onus is on the appellant to show that goods in question are plant or machinery or parts of machines, which are used for the manufacture of final product. Appellants had not produced any evidence to this affect. Therefore, I find no merit in the appeal, the same is dismissed.

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