Commissioner of Central Excise Vs. Vvf Limited

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SooperKanoon Citation : sooperkanoon.com/40084

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-25-2005

Judge : A Wadhwa, A M Moheb

Appellant : Commissioner of Central Excise

Respondent : Vvf Limited

Judgement :

1. This appeal is filed by the Revenue against the order of the Commissioner (Appeals), who in the impugned held that the lower authority denied Modvat credit on the inputs on the sole ground that the finished goods were exported and therefore, attracted Nil rate of duty. The Commissioner held that there is no authority to deny the credit under Modvat scheme on inputs used in the manufacture of final product, which was exported. He has also held that Advance Licence Scheme is another law wherein some duty benefit on import material is allowed under a Customs Notification. The Revenue's ground is that since export goods are exempted from payment of duty, the respondents are not entitled for Modvat credit. The Revenue relies on the decision of the Tribunal in the case of IBP Co. Ltd. v. Collector of Central Excise wherein the Tribunal held that final product manufactured by the appellants is not suffering any duty as the goods are supplied to a 100% Export Oriented Unit and therefore a manufacturer is not entitled to Modvat credit. The Tribunal has also held that a reading of various Central Excise Rules that shows that facility of Modvat credit is available in respect of duty paid on inputs used in or in relation to the manufacture of the specified

dutiable final products. When no duty is paid on the final product Modvat credit cannot be allowed.

2. None appeared for the respondents. Heard Id. DR and perused the records. The Department's contention is that the export goods are exempted from payment of duty and so under Rule 57C of the Central Excise Rules, 1944, credit cannot be availed is unsustainable. Modvat Scheme itself allows refund of Modvat credit accumulated on the inputs where final product is exported. Rule 57C comes in to play when final products which are cleared for domestic consumption, Rule 57C is not applicable when dutiable goods are exported. We see no merit in the Revenue's appeal and accordingly the appeal is rejected.