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Commissioner of Central Excise Vs. Deccan Diesal Components Mfg. Co.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Sep-14-2005

Judge : S T S.S.

Appellant : Commissioner of Central Excise

Respondent : Deccan Diesal Components Mfg. Co.

Judgement :

1. Revenue is in appeal against the grant of Modvat Credit on rejected diesel engine parts supplied to Railways vide two invoices dtd 14/1/99 received back and after removals and credit taken on 19/8/99, on finding that there was no time limit of six months to avail credit. The limit is not applicable to return of one's own goods relying on Lakshmi Automatic Works 2002 (103) ECR 630 (T). Therefore credit of Rs. 244296/- was allowed & penalty of Rs. 40000/- set aside.

(i) Rule 57G (2) does not permit credit after six months & rely upon Kusum Ingots & Alloys Ltd 2000 (120) ELT 214 & Osram Surya 1998 (29) RLT 684 & other decision.

(ii) The facts herein are different from the facts relied upon by the Ld. CCE(A) 3. When the matter was called, none appeared for the respondents. The findings of the CCE (A) on the counting of the period of six months from the date of receipt of the inputs & not issue of the in voices is to be upheld in this case of returned goods from the Railways, who were to use them as component for Diesel Engine as capital goods, which finding is not challenged. The document date of return of

the goods therefore is important & is not under challenge. The original invoices issued by the appellants are only evidences of the duty paid nature of the goods & not date of return invoices/challans etc issued by the Railways. There is no violation of Rule 57 G (2) established. Appeal therefore rejected.

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