

Titawi Sugar Complex Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-07-2005

Reported in : (2004)(172)ELT119TriDel

Judge : J Balasundaram, Vice-

Appellant : Titawi Sugar Complex

Respondent : Commissioner of Central Excise

Judgement :

1. Modvat credit has been disallowed to the appellants on (1) Electrodes, (2) Asbestos Packing, (3) P.M. Shaft and C.S. Castings - machine plates.

2. I have heard both sides. Credit is not admissible on electrodes in the light of the Tribunal's order in the case of CCE, Belgaum v. Panyam Cements & Mineral Inds. Ltd. - and following the ratio of the above decision, I hold that credit of Rs. 1921/- is not available to the appellants. As regards Asbestos Packing, the ground for disallowing credit is that this item was not declared. However, the appellant was able to produce a copy of the declaration dt. 20-1-99 in which they stated that they had declared this item. They filed copy of declaration filed on July & Oct. '99 clearly showing asbestos packing - HP Steam Jointing. Further in the case of Kamakhya Steels (P) Ltd. v.CCE, Meerut Tribunal has held even when declaration has not been filed in respect of input, Modvat credit is admissible and remanded the case to the adjudicating authority to examine the issue afresh in the light of amendment to Rules 57G and 57T and two Central Board Circulars dt.

30-1-99 and 23-2-99. Credit is admissible on asbestos packing I hold that the appellants are entitled to credit taken on asbestos bags.

3. P.M. Shafts are claimed to be component of Mill Roller which are used for extraction of juice. C.S. Castings/trash plate are claimed to be parts of mill rollers used between the feed and discharge rollers for movement of bagasse for further extraction of juice. The authorities below have disallowed credit on P.M. Shafts on the ground that they fall under chapter Heading 73.26 which was not included under Rule 57Q. Credit on C.S, castings has been disallowed on the ground that it is not an integral part of roller and roller can function independently with C.S. Casting. I note that there is no dispute regarding the receipt of the goods and that P.M. Shafts are component of mill roller and since the mill machinery itself is specified under Rule 57Q components thereof are covered in the table appended to Rule 57Q. As regards trash plates, it is not disputed that even after initially crushing bagasse can be further crushed to extract some more juice and without trash plates, the bagasse would fall to the ground and further extraction would not be possible. Therefore, it is rightly claimed by the appellants that trash plate is an accessory of the mill roller. Since the mill machinery of which this item is claimed to be an accessory is specified, the reasoning applicable to availability of credit on P.M. Shaft would apply here also and I hold, therefore, that credit is admissible on trash plates. In the result while upholding the denial of Modvat credit on electrodes, I hold that the appellants are eligible to the remaining amount of Modvat credit. The penalty of Rs. 40,000/- imposed stands reduced to Rs. 1,000/- and Modvat credit of Rs. 1921/- on electrodes is disallowed. The appeal is thus partly allowed.

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