

K.L. Strips Ltd. Vs. C.C.E.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-29-2005

Reported in : (2006)(105)ECC157

Judge : S T T.V.

Appellant : K.L. Strips Ltd.

Respondent : C.C.E.

Judgement :

1. Three appeals have been filed before the Tribunal against a common order-in-appeal dt. 22.9.03 passed by the Commissioner (Appeals), Ghaziabad which in turn has dealt with three orders-in-original.

2. The appellants M/s. K.L. Strips Ltd. are engaged in the manufacture of shapes and sections availing Cenvat credit. The lower authorities had questioned the eligibility of such availment of credit with regard to certain inputs, eventually disallowing the credit through a quasi-judicial orders-in-original. Being aggrieved by this, the appellants challenged the orders before Commissioner (Appeals), who while passing his order-in-appeal dt. 22.9.03 confined himself to a few invoices. (Invoice Nos. 18, 6, 10 & 4 issued by M/s. Aditya Forging and Allied Inds., Govindgarh), and ignored the remaining matter dealt with in the remaining orders passed by the lower authorities. It is also contended that the Ld. Commissioner (Appeals) did not give any direct findings on the issues examined by him and has shown stony silence with regard to the several submissions made by the

appellants. Barring the admissibility of Modvat credit in respect of metal rolls based on the description in the invoices, the order-in-appeal has ignored the rest of the other items in question being dealt with in the other orders-in-original.

3. Ld. Advocate informs that the impugned order-in-appeal is a truncated order and in which several facts are got mixed up. He, therefore, suggests Page 0159 that the case be remanded for a fresh decision, to which the Ld. Authorised Representative of the Deptt.

(ADR) has no objection.

4. I have examined the case records and heard both sides. As the impugned order-in-appeal has not taken into account the full facts of the matter as contained in all the three orders-in-original passed by the lower authorities. I, therefore, set aside the impugned order dt.

22.09.03 22.9.03 with the direction that the matter be remanded back to the Commissioner (Appeals) who will examine all aspects involved in all the three orders-in-original afresh, and pass necessary speaking orders after fully complying with the principles of natural justice.

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