

Cce Vs. A.R. Alloys

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-30-2005

Judge : S Kang, Vice, N T C.N.B.

Appellant : Cce

Respondent : A.R. Alloys

Judgement :

2. The Revenue filed this appeal against the order-in-appeal passed by the Commissioner (Appeals) whereby the benefit of Modvat credit was allowed to the respondent. The case of the Revenue is that the respondent availed the credit in respect of melting scrap on the strength of invoices issued by dealers in turn they had purchased the scrap from various manufacturing units. In the present case the dealer has shown that the scrap was purchased from four manufacturers i.e. M/s Luxmi Steel Industries, M/s Orient Steel, M/s Ambica Steel Ingots and M/s L.D. Steel Corporation and these units are not functioning, therefore, they could not have generated scrap on which credit has been taken by the respondents. The Revenue is relying upon the verification conducted in respect of manufacturing unit.

3. The contention of the respondent is that the appellant produced copies of RT-12 returns filed by the manufacturing unit, copies of electricity bills to show that the manufacturing units were in fact manufacturing goods on which they are paying duty but this evidence was not taken into consideration by the adjudicating authority. The respondent also read out the verification conducted by the Revenue

in respect of the manufacturing unit and statements recorded by the Revenue to show that in fact the manufacturing units were manufacturing excisable goods and are paying duty, therefore, no duty can be made from the respondents.

4. In this case, the Revenue is only relying upon the verification report and statements recorded all manufacturing units to show that these are not manufacturing any excisable goods. We have gone through the statement, from the statement, it is clear that the manufacturing units were manufacturing excisable goods and are paying duty and filing regularly RT-12 returns and also maintaining the statutory record. In these circumstances, we find no infirmity in the impugned order whereby Commissioner held that the credit has been rightly taken by the respondents. The appeal is dismissed.

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