Pooja Forge Ltd. Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-03-2006

Reported in : (2007)8STR318

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

Appellant : Pooja Forge Ltd.

Respondent : Commissioner of Central Excise

Judgement :
1. The appellant is a manufacturer of nuts, bolts and screws. The present appeals are directed against orders denying Modvat credit of about Rs. 14.5 lakhs for capital goods and imposition of penalties.

Credit has been denied for the reason that the appellant had moved some capital goods from one unit, where credit was taken, to another unit or that some of the machines were directly received in the second unit.

2. The contention of the appellant is that both the units belong to the appellant and that manufacturing activities connected to the production of nuts, bolts and screws were taking place in both the units. It is also the explanation that machinery was moved for repair, test etc.

Whatever be the reasons for moving them, the Id. Counsel has emphasized that, this is not a case of alienation of machinery on which capital goods had been taken, to warrant return of credit.

3. As against the contentions of the appellant, Id. SDR would submit that since the movement of the capital goods was without permission from the unit where the credit was taken to another unit, there was violation of the rules. He also emphasized that at the time of movement/receipt of the capital goods, the second unit was not registered with the Central Excise.

4. A perusal of the records makes it clear that capital goods were moved only between the appellant's own units and that too for use in the manufacture of the same final products. The case does not involve any disposal or alienation of Modvated capital goods, which would warrant return/denial of Modvat credit. There is no justification for denying the credit. Imposition of penalties were also unjustified. In these circumstances, the impugned orders are set aside and appeals are allowed with consequential relief to the appellants.