Dynamic Industries Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-10-2006

Judge : N T C.N.B.

Appellant : Dynamic Industries

Respondent : Commissioner of Central Excise

Judgement :

1. The appellant is a manufacturer of automobile parts, item being "door trims". These are supplied as original equipment to automobile manufacturers like Daewoo Motors India Ltd., Hindustan Motors India Ltd., Ashok Leyland Ltd., etc. Some consignments so supplied are returned by the recipient as rejects. The appellant has been taking credit of the duty paid on such items, thereafter repairing and remaking such rejected items and clearing them on payment of duty.

Under the impugned order, Modvat credit of Rs. 1,16,587/- has been denied in respect of door trims so received back. The reason for such denial of credit is that Mr. K. M. Gupta, Finance Manager of the Company, had stated in the proceedings on 15-6-2001 that the rejected materials are destroyed being received in depleted condition or non-usable or non-repairable condition.

2. The submissions of the learned Counsel is that the finding reached was entirely based on the statement of Shri K.M.Gupta and is not correct at all. Learned Counsel has placed copies of Rule 57A account to show that the appellant had been receiving the rejected goods and issuing them for remaking and taking the

re-made items into production account. The contention is that the statement of Shri Gupta remains controverted by contemporaneous documentary evidence. According to the learned Counsel, a statement which is contrary to documentary evidence cannot be accepted.

3. The finding is not sustainable. Contemporaneous documentary evidence confirmed the repair and clearance of the damaged door trims. An uncorroborated statement cannot find precedence over such evidence. The impugned order is set aside and appeal is allowed with consequential relief to the appellant.