Super Cassettes Industries Ltd. Vs. C.C.E.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-12-2006

Judge : S Kang, Vice, M T K.C.

Appellant : Super Cassettes Industries Ltd.

Respondent : C.C.E.

Judgement :
1. Heard both sides. Ld. Single Member referred the matter to the Division Bench for reconsideration of the decision in appellant's own case vide Final Order No. A. 1205-NB dt. 8.9.03 in Appeal No.E/569/03-NB(S). In this case the Tribunal held that the appellants are not entitled for the benefit of Modvat credit as capital goods in respect of Fluorescent Tubes as these are not specified goods under the definition of Rule 57Q of Central Excise Act.

2. The appellants are engaged in the manufacture of Audio Magnetic Tape and Audio Cassettes and they are availing the benefit of Modvat credit in respect of capital goods which are used in or in relation to manufacture of final product. The appellant claimed the benefit of credit in respect of U.V. Lamp, Fluorescent Tube, U.V. Radinat Tube which are used as parts of printing machine which is falling under sub-heading 8443 of Central Excise Traiff. The contention is that printing machine is specified goods for the benefit of credit as capital goods under the provision of Rule 57Q of Central Excise Rules and they are availing the credit in respect of printing machine. The contention is that as per the definition of capital goods under Rule 57Q of Central Excise Rules, the parts and components, spares

and accessories of specified goods are also covered under the definition of capital goods. The adjudicating authority in the impugned order disallowed the credit after relying upon the decision of the Tribunal which is in favour of the Revenue.

3. The contention of the appellant is that as per the Board circular dt. 2.12.96, it has been clarified that manufacturer is entitled for benefit of credit as capital goods in respect of components, spares and accessories of specified goods irrespective of their classification.

The contention is that as the goods in question are used as components.

Parts of printing machine which is specified goods, therefore, they are entitled for credit. The appellant also relied upon the decision of the Tribunal in their own case i.e. final order No. 1787-88/05(SM) in appeal No. E594 95/04 NB(SM) and Final Order No. 93/06(SM) dt. 27.12.05 in appeal No. E/2234/04-NB(SM) where the credit in respect of the same goods has been allowed after taking into consideration the Board circular dt. 2.12.96.

4 We find that the Tribunal in the earlier case where the benefit was denied has not considered the clarification issued by the Board circular dt. 2.12.96 and without taking into consideration this circular it was held that as the goods are not in question are classifiable under Heading 85.34 of the Tariff which is not specified goods under Rule 57Q of Central Excise Rules, therefore, credit is not available. As the Board has clarified that the component parts and accessories of specified goods are entitled in respect of classification and in the present case, printing machine is specified goods under Rule 57Q of Central Excise Rules, therefore, component parts of the printing machine are also entitled for the credit in respect of their classification. In these circumstances, we find the view taken by the Tribunal in Final Order No. A 1205 03-NB(SM) whereby the credit was denied is not a correct law.

5. The appellants are entitled for the credit in respect of the goods in question. In view of Board's circular dt. 2.12.96. The impugned order is set aside and the appeals are allowed.