

Jobelle Vs. Ccex

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-18-2006

Reported in : (2006)(113)ECC185

Judge : S T Chittaranjan

Appellant : Jobelle

Respondent : Ccex

Judgement :

1. Heard both sides. The appellants have taken Cenvat credit on the inputs and packing materials for manufacture of finished goods, namely Tassels and Trimmings falling under Tariff sub-heading 5808.01, which are exempted goods manufactured by the appellants, and which have been exported. The original authority has accepted the "Letter of Undertaking" (LUT) in lieu of bond for export even though the finished goods were exempted. The appellants claim for refund of the Cenvat credit on the inputs and packing materials, has been rejected on the ground that Rule 6(1) of the Cenvat Credit Rules, 2002 does not allow credit on inputs used in the manufacture of exempted goods. The claim of the appellants under Clause (v) of Sub-rule (5) of Rule 6 of the Cenvat Credit Rules, 2002 has also been rejected on the ground that they have exported the goods under LUT and not under Bond.

2. Heard the learned DR, who supports the order of the lower authorities. The purpose of the Sub-rule (1) of the Rule 6 of the Cenvat Credit Rules, 2002 is quite

clear that Cenvat credit on inputs is not to be allowed, if the same are used in the manufacture of exempted goods. The Sub-rule (5) makes an exception when exempted finished goods are either cleared to a free trade zone, SEZ, 100% EOU or are cleared for export under Bond without payment of duty. If the goods are exported on payment of duty after taking credit of duty paid on the inputs and utilizing the same, then the question of refund of input duty would not arise. But it is clearly the Government's policy not to export the domestic duties, on the finished goods or on the inputs, to the International market. If refund of input duty credit is not allowed, the goods will become costly in international market and less competitive. Keeping in view the rationale behind of refund of input duty credit on exported goods, the action of the lower authority cannot be justified. Accordingly, liberally interpreting the provisions of Sub-rule (5) of Rule 6 of the Cenvat Credit Rules, 2002, I allow the appeal with consequential benefit to the appellants as the finished goods have been exported without payment of duty.

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