Nrb Bearings Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-06-2006

Reported in : (2007)(114)ECC95

Judge : T Anjaneyulu

Appellant : Nrb Bearings Ltd.

Respondent : Cce

Judgement :

1. Heard both sides. This is a case where the inputs i.e. cold rolled steel strips have been removed as such after partial processing such as excise duty. The department has alleged that the slitted steel strips are not liable for payment of duty on the ground that it does not amount to process of manufacturing activity. The assessee herein is engaged in the manufacture of ball and roller bearings for which the cold rolled steel strips were being used as raw materials by converting into slitted steel strips as per requirement. In the process of such use in the manufacturing activity of final products i.e. roller and ball bearings, if excess slitted steel strips found lying in the premises, they are cleared out on payment of duty of excise on higher value. The department has confirmed the demand for wrong availment of Cenvat Credit on the said materials and required the assessee to reverse the same. There is no dispute about payment of duty on the cleared good i.e. slitted steel strips but still the department alleged wrong availment of cenvat credit and also charged interest for its recovery and imposed penalty.CCE, Mumbai-IV v. Piramal Spinning & Weaving Mills Ltd. 2002 (100) ECR 50 (Tri.) (2)

PSL Holdings Ltd. v. CCE, Rajkot . In the latter case, the observation of the We have considered the submissions made by both sides. The undisputed facts on record are that the appellants were availing the benefit of the Cenvat Credit of duty paid on the coating materials and were paying the duty of excise on their final product on the full value of the coated pipes. As such the credit availed by them was being utilized for payment of duty on the coated value of the pipes. By adopting such an exercise, the credit availed by the appellants is reversed by way of utilizing the same for payment of duty on the final product which were not required to pay. In these circumstances, in our views, the credit availed by the appellants and utilized by them for the purpose for which the same was not required to be utilized, already stands reversed by them. As such, they cannot be asked to once again reverse the credit so availed.

Accordingly, we set aside the impugned order and allow the appeal with consequential relief to the appellants.

3. There are other decisions which cover the issue on hand such as CCE & C (Appeals) v. Narayan Polyplast 2005 (179) ELT 20 (SC) and CCE & C, Vadodara v. Narmada Chematur Pharmaceuticals Ltd. Furthermore, the assessee has rightly paid duty in terms of Sub-rule (3)(b) of Rule 3 of Cenvat Credit Rules which speaks that CENVAT credit may be utilized for payment of (b) any duty equal to CENVAT credit taken on inputs if such inputs are removed as such or after being partially processed. Even otherwise payment of duty by the assessee on the cleared goods though not dutiable it amounts to effective rate of reversal of credit taken as per the observations made in para 6 in the case PSL Holdings Ltd. v.CCE, Rajkot. Therefore, I am of the considered view that both the authorities below have erred in confirming the demand, levying interest and imposing penalty on them and the same is liable to be set aside.

Accordingly the impugned order is set aside and the appeal filed by the assessee is allowed with consequential relief, if any, to the appellants.