Madhya Pradesh Polyproplene Vs. C.C.E.

Madhya Pradesh Polyproplene Vs. C.C.E.

SooperKanoon Citation : sooperkanoon.com/44148

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-21-2006

Reported in : (2006)(105)ECC502

Judge : S Kang, Vice

Appellant : Madhya Pradesh Polyproplene

Respondent : C.C.E.

Judgement :

1. Heard both sides. The issue involved in this appeal is whether the Evaporation Boat which is used with the machine is entitled for the credit as capital goods. The credit was denied on the ground that Evaporation Boats are not refractory material.

2. The contention of the appellant is that they are engaged in the manufacture of metallised BOPP film. For metallising plain BOPP film, coating is carried out in a special machine where the plain BOPP film is allowed to pass in a hallow cavity with a high degree of vacuum in presence of metallic vapours. For generation of metallic vapours, metal is heated and thereafter was allowed to be cooled so that vapours are able to deposit the BOPP film which is being passed through vacuum chamber. The generation of metallic vapour is achieved by localised heating in the bottom of vaccum chamber of the metallic wire by placing it in a heated small container of a material which is capable of withstanding high temperatures of 1500 oC. A small container which is used for evaporation is known as evaporation boat.

3. The contention is that this boat is used as part of evaporation and without this machine, the metallising film is not possible. Therefore, being component part of that machine, the vacuum boats are entitled as capital goods.

4. The contention of the revenue is that the Tribunal in the following decisionsMelton India Ltd. v. CCE, Meerut held that evaporation boats are not entitled for credit as inputs under Rule 57A. Therefore, the credit is not admissible.

5. The issue is regarding the admissibility of credit in respect of evaporation boats as capital goods. During the period in dispute Rule 57Q provides the specified goods used in the factory of manufacture of final product as eligible for credit as capital goods. Rule 57Q(5) also provides that components, spares and accessories of the specified goods are also eligible for credit as capital goods.

5. The revenue is not disputing the manufacturing process as explained by the appellant, therefore, I find that as these evaporation boats are used with the metallising machine and without these evaporation boats, the metallising, film is not possible. The decision relied upon by revenue in respect of credit as inputs. The Tribunal in the decisions relied upon by revenue after taking into consideration the scope of definition of inputs held that the evaporation boats cannot be held to be input. In the case of Madhya Pradesh Polypropylene Ltd(supra), the Tribunal held that evaporation boats are in the form of bowles in which aluminium wires are placed for heat treatment clearly in the nature of tools and equipments hence it cannot be held to be input. The Larger Bench of the Tribunal in the case of Melton India Ltd.(supra) held that the evaporation boats are used in the manufacture of metallised film as they are having property of resisting high temperature under vacuum.

The plastic rolls are loaded from one side of the vacuum chamber and the aluminium wire is continuously fed in from the other side to the evaporation boat where it is evaporated. I find that as these evaporation boats are used as part of vacuum chamber of evaporation machine and without this the metallising film is not possible, therefore, the evaporation boats are entitled for the credit as capital goods. The impugned order is set aside and appeal is allowed.