

Wires and Profiles Vs. Collector of C.E.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Tamil Nadu

Decided On : May-30-1988

Reported in : (1988)(17)ECC155

Appellant : Wires and Profiles

Respondent : Collector of C.E.

Judgement :

1. This appeal is directed against the order of the Collector of Central Excise (Appeals), Madras, dated 10-7-1987 confirming the order of the Assistant Collector of Central Excise, Hosur Division, dated 26-2-1987 rejecting the claim of the appellant to MODVAT benefit in respect of bare aluminium strips and bare copper strips produced by the appellant out of aluminium rods and copper rods and utilised in the manufacture of paper covered aluminium/copper strips.

2. Ananthasubramaniam, the learned Consultant for the appellant submits that the items in question are inputs emerging as intermediate products in the factory of the appellant and are captively consumed in the manufacture of double paper covered aluminium strips and would be entitled to MODVAT credit in terms of Rule 57A of the Central Excise Rules, 1944. The learned Consultant further submitted that MODVAT credit has been denied by the authorities below on the ground that Notification No: 197/86, dated 14-3-1986 amended Rule 57A and extended the benefit of MODVAT to the inputs which are manufactured and used within the factory of production in or in relation to the manufacture of final products. It was contended that this Notification is only clarificatory in nature and therefore the

appellant should have been given the MODVAT credit in respect of the items manufactured and used within the factory of production.

4. It is not disputed before me that Rule 57A is silent on the question with reference to availability of MODVAT credit in respect of inputs manufactured and used within the factory of production in or in relation to the manufacture of final products. Notification No. 197/86 expressly enables the manufacturer to avail MODVAT credit in respect of the inputs manufactured and used within the factory of production in or in relation to the manufacture of final products and as per notification it would be operative only prospectively on and from 14-3-1986. If really Rule 57A had envisaged this benefit dehors Notification No. 197/86 it does not stand to reason as to why the Government should have issued the Notification at all. As rightly contended by the learned S.D.R. Notification No. 197/86 is not clarificatory of an existing position in Rule 57A, but on the other hand is intended to confer the benefit of MODVAT credit on inputs manufactured and used within the factory of production. The Notification expressly states that it will be operative only prospectively. A conjoint reading of Rule 57A and Notification No.197/86 referred to supra would make it clear that the appellant would be entitled to take MODVAT credit in respect of the inputs manufactured and used in the factory of production only on and from the date of Notification No. 197/86, dated 14-3-1986. In the instant case the authorities have rightly held that this MODVAT facility in terms of the Notification referred to supra would not be available to the items in question prior to 14-3-1986 and in this case for the period 1-3-1986 to 13-3-1986.1, therefore, uphold the findings of the authorities below under the Impugned orders and dismiss the appeal.

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