Commissioner of C. Excise Vs. Essel Propacks Ltd.

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SooperKanoon Citation : sooperkanoon.com/45928

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jul-30-2007

Reported in : (2008)13STT52

Judge : T Anjaneyulu

Appellant : Commissioner of C. Excise

Respondent : Essel Propacks Ltd.

Judgement :

1. Heard both side. The issue involved in the present Appeal is that whether Cenvat Credit can be utilized for payment of Service Tax in respect of Services provided by Goods Transport Agents (GTAs) in accordance with the Cenvat Credit Rules, 2004 or otherwise.

2. The Appellant herein is the manufacturer of Laminated Tubes. The Cenvat Credit is available to the assessee on the inputs and capital goods. Duty is being utilized towards payment of Service Tax on the Goods Transport Agents for which he is responsible to pay the Service Tax. This has been rightly allowed by the Commissioner (A). However, aggrieved by the same the Department came in Appeal. There is a decision covering the subject and the simple issue has been settled in favour of the assessee vide Order in the case of CCE, Chandigarh v.Nahar Industrial Enterprises Ltd. 3. The Tribunal in the above case while considering the Rules 2(p) 2(q) 2(r) of the Cenvat Credit Rules has held that "there is no restriction for utilization of Cenvat Credit by the manufacturing unit

towards payment of Service Tax as Service Tax Provider". Therefore, I find no infirmity in the impugned order passed by the Commissioner. The appeal filed by the Revenue lacks in the merits. Accordingly appeal is dismissed.