

Cce Vs. Shell Extruders

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Ahmedabad

Decided On : Oct-03-2007

Reported in : (2008)(222)ELT383TriAhmd

Judge : V T M.

Appellant : Cce

Respondent : Shell Extruders

Judgement :

1. This is a Department's appeal against the order of the Commissioner (Appeals) No. 106/2006(Ahd-I), dt.22.6.06.

3. The relevant facts, in brief, are as follows. The respondent are doing job work and also undertaking manufacture on their own. They are availing cenvat credit for LDO and LPG. The department held the view that in respect of the goods manufactured and cleared on job work basis, no duty was being paid and therefore the cenvat credit involved amounting to Rs. 81,019/- on the inputs LDO/LPG relatable to the goods manufactured on job work basis, should be reversed. Therefore, a show cause notice was issued proposing a recovery of Rs. 81,019. The original authority dropped the proceedings. On department's appeal, the Commissioner (Appeals) also rejected the appeal and upheld the order of the original authority. Ld SDR seeks setting aside the order of the commissioner (appeals).

4. The learned representative appearing for the respondent relied on the decision of the Tribunal in case of National Engineering Ind. Ltd. v. CCE Jaipur-I - 2002 (150) ELT 161 (Tri-Del.) and claimed that the fuel was specifically excluded from the operation under Rule 57C and 57CC and therefore no recovery to be made in respect of LDO/LPG used by them in the goods manufactured on job work basis and cleared without payment of duty.

5. I have carefully considered the submissions from both sides. The dispute relates to the period prior to 16.5.05. as rightly noted by the commissioner (Appeals), w.e.f. 16.5.05, the word and phrases "except inputs intended to be used as fuel" were dropped from the Rule 6(2) Cenvat Credit Rules, 2004, vide Notification No. 27/2005-CE(NT), dt.

16.5.05. The Commissioner (Appeals) has also relied on the decision in case of National Engineering Ind. Ltd. cited supra. This decision is very much relevant to the present facts of the case. In view of these, I do not find any valid ground to interfere with the concurrent findings of the original authority as well as the Commissioner (Appeals).

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