

Kopran Ltd. Vs. Ccex

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-25-2007

Reported in : (2007)(123)ECC368

Judge : S T A.K.

Appellant : Kopran Ltd.

Respondent : Ccex

Judgement :

2. The appellants are the manufacturer of P or P Medicaments falling under Chapter 30 of the schedule to the CETA, 1985. The issue involved in the instant appeal is regarding the admissibility of the Modvat credit on E1. Analytical balance and PH meter. The Commissioner (Appeals) has disallowed the Modvat credit on the impugned goods on the ground that these are used in the stage prior to the manufacture of the goods and, therefore, these goods cannot be said to be used in or in relation to the manufacture of the final goods.

3. I find that the impugned goods were received vide Bill of Entry dated 28.7.94 and credit was taken in Sept. 1994. I, further, find that E1. Analytical balance is used to weigh analytical quantities very precisely. Similarly, PH meter is used to find out the compliance on noncompliance level of the various raw materials. The items are used in the factory in the process of manufacture as quality control checks of inputs, which are an integral part of the manufacturing process of P or P medicaments, as per FDA regulations. Hence, these are eligible to the Modvat

credit under Rule 57Q of the CER, 1944. The credit has been correctly availed by them. While holding so, I place reliance on the following case laws: Geep Industrial Syndicate Ltd. v. CCE, Allahabad , in which it has been held that the electrically heated muffle furnace used for testing quality of raw materials at different temperatures is eligible to Modvat credit under Rule 57Q ibid.

(ii) CCE, Chandigarh v. Steel Stripes Ltd. , wherein the Tribunal has held that the computer software installed with Baird Direct Reading Vacuum Emission Spectrometer for analyzing report of sample testing of raw material being used in manufacturing process is eligible to the benefit of Modvat credit in terms of Rule 57Q(1) of Central Excise Rules, 1944.

(iii) Sri Sarvaraya Sugars Ltd. v. CCE, Guntur , wherein the Tribunal has held that PH meter is used to test viscosity of water and aerated water and this is used for testing the quality of goods produced. Therefore, it is used in relation to the manufacture of the goods and is entitled to the benefit of the Modvat credit.

4. In the light of the foregoing, I hold that the impugned order passed by the Commissioner (Appeals), disallowing the Modvat credit on E1.

Analytical balance and PH meter is not sustainable. The same is set aside to this extent. Since the appellants have been held to be eligible to the Modvat credit on the impugned goods, the question of imposition of penalty of Rs. 25,000/- on them does not arise. The same is set aside.

5. The impugned order passed by the Commissioner (Appeals) is modified to the extent indicated above. The appeal filed by the appellants is allowed with consequential relief, if any.

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