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Systems India Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-13-2007

Reported in : (2008)(126)ECC33

Judge : S Kang, Vice

Appellant : Systems India

Respondent : Cce

Judgement :

1. Heard both sides. The appellants filed this appeal whereby credit in respect of duty paid on inputs was denied on the ground that the appellants in the declaration filed under Sub-rule 1 of Rule 57-G of Central Excise Rules did not declare the final product Charging bar.

2. The appellants are engaged in the manufacture of excisable goods and appellants cleared charging bar vide invoice 11 dated 7.1.1994 by paying Central Excise duty by utilizing the modvat credit. Show cause notice was issued on the ground that the charging bar was not declared final product, therefore, duty in respect of charging bar cannot be paid from the cenvat credit account.

3. I find that as per the Central Excise Rules, during the relevant period, provides that credit on specified goods can allowed in respect of any input utilized towards payment of any excise on any of the final product in or in relation to the manufacture of which such are intended to be used in accordance with the

declaration filed in Sub-rule (1) of Rule 57-G. I find that Rule 57-G has been amended by Notification No.7/99-CE dated 9.3.1999 to the effect that credit shall not be denied on the ground that declaration filed under Sub-rule (1) of Rule 57-G did not contain all the details required to be contained therein or the manufacturer fails to comply with any other requirements under Sub-rule (1). The Larger Bench of the Tribunal in the case of Kamakhya Steels (P) Ltd v. CCE Meerut amendment is applicable to pending cases also. As Rule 57-G has been amended that credit shall not be denied if all the particulars are not mentioned in the declaration, therefore, denial of credit in the present case is not sustainable. The rule during the relevant period provides that credit on specified duty may be utilized towards payment of duty of excise or any of the final product in or in relation to the manufacture such are intended to be used in accordance with the declaration filed under Rule 57-G of central Excise Rules. Therefore, in these circumstances, the impugned order is set aside and the appeal is allowed.

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