

Dewan Sugar Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-03-2007

Reported in : (2008)(125)ECC295

Judge : S Kang, Vice

Appellant : Dewan Sugar Ltd.

Respondent : Cce

Judgement :

1. Heard both sides. The appellant filed this appeal whereby the payment was interest was confirmed under Rule 12 of the Cenvat Credit Rules on the allegation that the appellant had taken cenvat credit wrongly. The contention of appellant is that the credit was correctly taken in respect of capital goods but the same was not utilized and this fact is admitted in the impugned order and the adjudicating authority also noticed this fact in the order in original. The appellant relied upon the decision of the Tribunal in the case of Gupta Steel v. CCCCE v. Gupta Steels 2. The contention of revenue is that as per the proviso of Rule 24 of Central Excise Rules, a manufacturer is liable to pay interest and penalty wrongly taken or utilized.

3. I find that the undisputed fact is that appellants had taken credit but the same has not been utilized. The Tribunal in the case of Gupta Steel held that in case credit which was not utilized, the manufacturer is not liable to pay interest in case of reversal. The revenue filed appeal and the Hon'ble Gujarat High Court in the

case of CCE v. Gupta Steels supra upheld the order passed by the Tribunal. In view of the above decision, the impugned order demanding interest and penalty is not sustainable and hence set aside.

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