**Commissioner of Central Excise Vs. Manugraph India Ltd.**

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**SooperKanoon Citation** : sooperkanoon.com/46929

**Court** : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

**Decided On :** Jan-31-2008

**Judge** : J Balasundaram, Vice

**Appellant** : Commissioner of Central Excise

**Respondent** : Manugraph India Ltd.

**Judgement** :

1. The respondents are engaged in the manufacture of printing machinery and parts thereof falling under Chapter 84 of the First Schedule to the CETA, 1985. It was noticed that they had availed Cenvat Credit of duty paid on inputs and sent these inputs to their job workers for further processing under the provisions of Rule 4(5)(a) of the Cenvat Credit Rules, 2004; that during the course of processing of inputs by the job worker, scrap of iron and steel and aluminum is generated and in turn the inputs received back from the job work was short to that extent (to the extent of the weight of waste and scrap). The department was therefore of the view that Cenvat Credit involving such quantity was reversible in the light of the provisions of Rule 4(5)(a) of the Cenvat Credit Rules, 2004. Two show cause notices dated 29.6.2006 and 26.9.1996 were issued for recovery of Cenvat Credit of Rs. 3,86,658/- and Rs. 1,51,620/- together with interest and the notices also proposed penal action against the respondents.

2. The demands were dropped by the adjudicating authority (A.C), who held that the assessee could not be called upon to reverse Cenvat Credit taken on scrap as casting was their input and not scrap, and, only in the event of non return of

inputs/capital goods Modvat Credit can be directed to be reversed under Rule 4(5)(a) of the Cenvat Credit Rules, 2004. The Revenue went up in appeal to the Commissioner (Appeals), who upheld the adjudication orders and rejected the appeals of the Revenue. Hence these appeals.

3. I have heard both the sides and find that the Ld Counsel for the Respondent is correct in his submission that the grounds of the appeals by the Revenue before the Commissioner (Appeals) go beyond the findings contained in the adjudication orders. Further the issue in dispute stands settled by the Tribunal's orders in Preetam Enterprises v. CCE, Pune II 2004 (173) ELT 26 (Tri-Mumbai) and Order No.A-1938-1939/WZB/2006-C.IV/SMC dated 10.11.2006. In the appeal filed before the Tribunal, the Revenue seeks that duty liability in respect of the goods in question manufactured by job worker is to be discharged by the supplier of inputs/capital goods to the job worker. Since this issue stands decided against the Revenue by the Tribunal's orders cited supra I hold that there is no merit in the above appeals. Accordingly, the impugned order of the Commissioner (Appeals) is upheld and the appeals rejected.