

L.B. Textiles Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Ahmedabad

Decided On : Feb-28-2008

Judge : A Wadhwa

Appellant : L.B. Textiles

Respondent : Cce

Judgement :

1. The duty of Rs. 3,56,307/- stands confirmed against the appellant by the authorities below by denying them the benefit of modvat credit in respect of fabrics lying in stock as on 31.3.03 to 1.4.03. The said fabrics were introduced to modvat credit w.e.f. 1.4.03 by insertion of Rule 9A of Cenvat Credit Rules, 2002. In terms of Sub-rule 2 of the said Rule, appellants were entitled to modvat credit of duty paid on the inputs lying in stock as on 31.3.03. A declaration was filed by the appellant on 3.4.03 declaring the said stock. However, subsequently, Sub-rule 5(b) was inserted in Rule 9A in Notification No.40/2003-CE(NT) dt.30.4.03 extending the time for filing declaration in respect of the stock lying in the factory as on 1.4.03. The appellant subsequently, filed a revised declaration on 2.5.03 and further revised on 26.5.03 and 13.6.03.

2. It: is the contention of the Revenue that multiple filing of declarations by the appellants was not in accordance with the provisions of law and they should have filed one declaration declaring description, quantity, value of stock of inputs lying in the factory as on 1.4.03.

3. On the other hand, it is the appellant's contention that the necessity to file multiple declarations arose in as much as they were not in a position and the invoices and other documents showing the value of the goods and quantum of duty involved, on account of strike in the industry. It is not the case of the Revenue that such goods were lying in the factory premises and the only reason for denial is that multiple declarations were filed instead of one consolidated declaration.

4. After hearing both the sides, I find that there is no dispute about the availability of input credits in respect of the goods, which stand denied only on the procedural aspects that instead of filing one declaration, multiple declarations have been filed by the appellant.

There is no requirement under the law of filing only one declaration.

As such, I do not agree with the reasoning adopted by the lower authority for denial of the credit and accordingly, set aside the impugned order and allow the appeal.

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