Meena Engineering Works Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Nov-05-1993

Reported in : (1995)LC346Tri(Mum.)bai

Appellant : Meena Engineering Works

Respondent : Collector of Central Excise

Judgement :

1. Though today only the stay applications were listed for hearing, the issue involved has already stood covered by the earlier decisions of this Bench. Hence both the appeals are taken up for final hearing, granting waiver of pre-deposit.

2. The appellants have sent a telegram requesting for adjournment.

However, considering the fact that the issue is squarely covered by the decisions of this Bench referred to hereinafter, there is no need for hearing the appellants on the point and hence request for adjournment is not considered.

3. Appeal E/694/93 is filed against the Order-in-Appeal No. PCJ/ 128/BRD/93, dated 22-9-1993 of the Collector (Appeals), Bombay, upholding the Order-in-Original No. Demand/192/92, dated 18-11-1992, whereas appeal C/695/93-Bom is filed also against the same Order-in-Appeal No. PCJ/128/BRD/93 of 22-9-1993 of Collector (Appeals), Bombay, upholding the Order-in-original No. Demand/191/92, dated 18-11-1992 of Assistant Collector of Central Excise, Anand Division.

4. The issue involved in both the appeals is that the appellants filed a declaration under Rule 57G for claiming MODVAT benefit on the inputs and thereafter took MODVAT Credit for the commercial plywood and the objection raised was that in the declaration, they had declared laminates and plywood and commercial plywood was not specifically mentioned as an input. The Assistant Collector therefore disallowed the credit and in appeals before the Collector (Appeals), the same orders have been confirmed.

5. A similar point had arisen before this Bench in the case of one of the parties namely M/s. Workwell Engg. Co. and this Bench vide Order No. 874-75/93-WRB, dated 28-5-1993 and also in another Order No.1110/93-WRB, dated 25-6-1993 has taken the view that when plywood has been declared, there was no necessity of declaring as separate item, "commercial plywood" and that the MODVAT credit cannot be denied on the ground of non-declaration of the input. For the purpose of arriving at this conclusion, this Bench also took assistance from the decision of the Supreme Court in the case of Jain Shudh Vanaspati. The issue involved in the present set of appeals is identical and there is no fresh ground urged by the Ld. JDR to alter the view that has already been taken by this Bench earlier. Under the circumstances, the orders passed by the authorities below are to be set aside. The appeals are therefore allowed. The department shall authorise the appellants to restore the credit disallowed.