Samtel India Ltd. Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-10-1994

Reported in : (1994)(71)ELT737TriDel

Appellant : Samtel India Ltd.

Respondent : Collector of Central Excise

Judgement :

1. The sole issue for determination in all these appeals is the eligibility for modvat credit of caustic soda, hydrofluoric acid, hydrochloric acid, nitrogen gas and oxygen gas used as inputs in the manufacture of monochrome picture tubes. The appellants herein are engaged in the manufacture of picture tubes for black and white TV sets classified under Chapter 85 CETA, 1985. The inputs and outputs are covered by the modvat scheme and were duly declared to the Department.

Show cause notices were issued seeking to deny modvat credit on the ground that the disputed items were in the nature of apparatus/appliances and, therefore, not covered by the definition of inputs in terms of Rule 57A of the Central Excise Rules. The Assistant Collector confirmed the denial of modvat credit on the items in question and the lower appellate authority upheld the orders of the adjudicating authority.

No.	Period in dispute	Amount Rs.
NRB Jan. 90 to June 90	1,14,572.73	E/149/93-NRB
1-4-1991 to 29-2-1992	2,92,857.75	E/150/93-NRB
Not applicable	Not applicable	E/4689/93-NRB
July 89 to		

Sept.89 36,869.32E/4890/93-NRB April 89 to June 89 28,390.22E/4691 /93-NRB Oct. 88 to Dec. 88 46,162.77E/4692/93-NRB Jan. 87 to Jan. 88 7,850.48E/4693/93-NRB June 88 to Nov. 88 27,277.20

2. We have heard Shri S. Madhavan, learned Advocate and Shri K.N.Gupta, learned SDR.3. The process of manufacture of televison picture tubes consists of many operations. Enclosed is the process - flow chart for the manufacture of Black and White picture tubes (Annexure-I not printed).

Essentially the manufacturing process can be split up into processes concerned with manufacturing the front end and back end of the picture tube. Whereas the front end processes total 10 in number, there are 7 different operations connected with the back end process. The basic raw material for the manufacture of the TV picture tube is the glass shell.

The initial operation consists of an elaborate washing of the inert glass shell with a mixture of deionised water and hydrofluoric acid.

Thereafter the active glass shell is coated with phosphorous and potassium silicate prior to which a thin film of lacquer is coated on to the shell. Thereafter, graphite coating, aluminising and inspection of the glass shell under ultraviolet rays is carried out. Thereafter, another major item of input namely electron gun is sealed on to the glass shell. Subsequently, vacuuming and degassing under high temperatures and high current is carried out. The next three processes of banding, graphite painting as well as painting with silicon resin is carried out. The final Q.C. test is, thereafter carried out on the finished product and the Q.C. cleared product is packed in cartons and is ready for shipment. The nature and purpose of the input material and their functions in the manufacturing process are described below : Caustic soda : The glass shell is the principal raw material used in the manufacture of picture tubes, Glass is a highly inert material and needs to be transformed into active material in order to enable it to undego further processing. The glass shell is washed with a mixture of deionised water and hydrofluoric acid. Deionised water is pure water which is obtained by the treatment of raw water in the ion exchange process. A resin is used in the ion exchange process in order to

deionise water. The resin is subsequently regenerated by treatment with caustic soda. The process of regeneration refers to the process whereby the ion impurities which are removed from raw water in the deionisation process and which now form part of the resin are removed from such resin so as to restore the resin to its original quality. It can be seen that caustic soda is an essential input for the process of deionisation which is essential for the manufacture of TV picture tubes out of inert glass shells.

Hydrofluoric Acid : The chemical wash of the inert glass shell consists of a mixture of deionised water and hydrofluoric acid. The chemical wash is essential in order to ensure that the next process, namely phosphorous coating, is carried out effectively. Without the coating of phosphorous on to the glass shell, it would not be possible for picture tubes to be manufactured out of such glass shells. The chemical wash is essential for phosphorous coating and hence hydrofluoric acid is an input used in the manufacture of the picture tubes.

Hydrochloric acid: Hydrochloric acid is used to regenerate resin used in the deionisation process.

Nitrogen Gas : As already mentioned, the inner portion of the glass shell is coated with phosphorous. In order to ensure that the phosphorous coating takes place evenly, the glass shell is lacquered with an imported lacquer. The process of lacquering consists of spraying lacquer on to the inner portion of the glass shell under conditions of high pressure. The high pressure conditions are created by nitrogen gas, without the usage of which such conditions cannot be created.

Oxygen Gas : The Electron Gun is sealed on to the glass shell in order to enable transmission of electrons on to the TV screen. Oxygen gas is used in the sealing process in order to generate high temperature under which the process takes place.

4. The process described above has been set out in the appellants' own manufacturing process manual, extracts of which have been filed before us pursuant to our directions (Annexture II to the order not printed).

The appellants have also filed the following information: (a) Extracts from "The CRT Book" issued by Clinton Electronics Corporation, U.S.A. (b) Extracts from the "General Test Specifications for the manufacture of TV screen tubes" issued by NEC of Japan (c) Extracts from the "Technical Information Bulletin on Phosphor" used in the manufacture of TV picture tubes issued by Nichia Chemical Industries Ltd. Tokyo, Japan (d) Copy of the ISO 9002 Certificate granted by RWTUV, Bonn, Germany dated 31st August 1993, in favour of the applicants having established and applied the recommended quality system for monochrome cathode ray tubes and extracts from the Fine Wash Standard Operating Procedures, Slurry Preparation Operating Procedures and Sealing Standard Operating Procedures which bring out clearly the process of manufacture of cathode ray tubes for black and white television sets as also the importance of the specified process of chemical wash, lacquer and phosphor coating and electron gun sealing. The washing of the glass shell with hydrofluoric acid and distilled water is recognised in the "General test specifications" for manufacture of TV screen tubes".

5. The eligibility of water treatment chemicals to the benefit of modvat credit has been the subject matter of decisions of this Tribunal. In the case of Andhra Pradesh Paper Mills Ltd. v. CCE -1990 (50) E.L.T. 252 the Tribunal held that soda ash and alfloc used in the process of softening of water which is a process for the manufacture of the final product viz. paper were eligible for modvat credit but denied the benefit of modvat to hydrochloric acid used for cleaning of wiremesh as and when the same is found to have been clogged.Straw Products Ltd. v. Collector of Central Excise and Customs - 1992 (59) E.L.T. 572 the benefit of modvat credit was extended to chemicals and resin used for treatment of water used in the manufacture of paper and for manufacture of steam which was used for drying the paper. It was held that the production of steam is a connected or integrated process in the manufacture of paper and without steam, paper cannot be dried and manufactured and with untreated water the manufacture of paper would be commercially inexpedient though theoretically possible. The Bench followed the ratio laid down by the Hon'ble Supreme Court in the East End Paper Industries case to the effect that if the process is so integrally connected with the ultimate production of goods that it would be commercially inexpedient to produce finished goods without such process, all such inputs would get the benefit of credit

of duty. The Bench also relied upon the decision in the case of Andhra Pradesh Paper Mills supra.Collector of Central Excise v. Seshasayee Paper Boards Ltd. - 1992 (61) E.L.T. 304, hydrochloric acid and sulphuric acid used for treatment of water were held to be inputs used in relation to the manufacture of paper and eligible to the benefit of modvat credit.

6.2 Following the ratio of the above decisions, we hold that modvat credit is available on caustic soda and hydrochloric acid which are essential inputs for the process of Deionisation which is essential for manufacture of TV picture tubes out of inert glass shells. Modvat credit is also available on hydrofluoric acid used in the chemical wash of the inert glass shell which is an essential requirement for the process of phosphorous coating of the glass shells.

6.3 The eligibility to modvat credit of gases such as oxygen and ecetylene gas has been considered in earier Tribunal decisions. In the case of Collector of Central Excise v. Hindustan Development Corporation 1990 (47) E.L.T. 376 (Tri.), it was held that oxygen gas and dissolved acetylene gas are inputs used in the manufacture of intermediate product i.e. steel casting and the ultimate product bogies and couplers and not excluded under the exclusion clause to Rule 57A.This view was followed in the case of General Industrial Society v. CCE - 1992 (60) E.L.T. 569 and Larsen Toubro Ltd. v. CCE - 1993 (63) E.L.T.126. Following the ratio of the decisions supra, we hold that nitrogen gas used for creating high pressure conditions for the process of lacquering in order to ensure even coating of phosphorous on the glass shells and oxygen gas used to generate high temperature under which the process of sealing of electron gun on to the glass shell for transmission of electron to the TV screens takes place, are essential inputs in or in relation to the manufacture of the end-product i.e. TV picture tubes and entitled to the benefit of modvat credit.

7. In the result, we hold that modvat credit is available on all the inputs in question, set aside the impugned orders and allow the apeals with consequential relief if any, due to the appelants.