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Collector of Central Excise Vs. A.B. Tools Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-23-1994

Reported in : (1994)(71)ELT776TriDel

Appellant : Collector of Central Excise

Respondent : A.B. Tools Ltd.

Judgement :
P.C. Jain (T), K.S. Venkataramani (T), G.P. Agarwal (J), G.A. Brahma Deva (J) and P.K. Kapoor (T), Members 1. The question referred to this Bench by the two Member Bench which originally heard the matters is as follows :- "Whether in the facts and circumstances of the case Ramming Mass can be treated as part of the machinery for denial of Modvat Credit or it can be termed as an 'input' in terms of Rule 57A for eligibility of Modvat Credit." 2. This question has come up for consideration before Calcutta High Court in the case of Singh Alloys and Steel Limited and Anr. v.Assistant Collector of C. Excise, Durgapur, Steel Division and Ors.

-1993 (66) E.L.T. 594 (Cal.).

3. Learned JCDR was told about this judgment which has been brought on record by the intervener advocate, Shri A.K. Jain through his application dated 6-7-1993. Learned JCDR was also told that in case there is any contrary judgment he may bring it to the notice of the Bench. So far we have not heard anything from the Revenue regarding any contrary judgment. Accordingly, this being the only

judgment of High Court directly on this question whether Modvat Credit should be allowed in respect of ramming mass or not, we respectfully follow it and answer the question referred to the Bench in the affirmative i.e. ramming mass has to be treated as an 'input' in terms of Rule 57A for eligibility of Modvat Credit.

4. In order to appreciate the above ratio, we give the following extracts from the judgment of Calcutta High Court in the case of Singh Alloys, [Para 7] supra :- Sd/- Sd/- Sd/- Sd/- Sd/-(G.P. Agarwal) (K.S. Venkata- (P.C. Jain) (G.A. Brahma (P.K. Kapoor)Member (J) ramani) Member (T) Deva) Member (T) Member (T) Member (J) 5. In view of the decision of the Larger Bench Ramming Mass is treated as an 'input' in terms of Rule 57A for eligibility of Modvat Credit and, accordingly, the appeals filed by the parties are allowed and Cross Objections filed by the respondent are disposed of in the above terms.

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