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Ecko Cables (P) Ltd. Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-10-1994

Reported in : (1994)(72)ELT290TriDel

Appellant : Ecko Cables (P) Ltd.

Respondent : Collector of Central Excise

Judgement :

1. The eligibility of copper wire bars and copper wire rods received by the appellants for the manufac-:ure of their final products, electric wires and cables to the benefit of modvat credit during the period 4-5-1988 to 1-6-1988 on the basis of the certificates issued by Hindustan Copper Ltd., indicating payment of duty @ Rs. 6,200/-r'MT, is the issue that arises for determination in this appeal. The benefit has been denied on the ground that these certificates are not duty paying docu-nents within the meaning of Rule 57G and, therefore, modvat to the extent of Rs. 3,300/- PMT as per CBEC order No. 342/1/88-TRU, dated 20-5-1988 alone was allowed and the appellants were called upon to deposit the balance demand of differential duty of Rs. 59,168.38. Hence this appeal.

2. We have heard Shri R. Nambirajan, learned Advocate and Shri V.K.Sharma, learned SDR.3. We find that this issue has been decided in favour of the assessees by Order No. A/927-930/93-NRB, dated 17-11-1993 in the case of Devi Dayal and Mahendra Corporation and Anr. v. CCE, New Delhi in which the certificate issued by Hindustan Copper Ltd., which is a public sector has been accepted as a duty paying documents in terms of Rule 57G(2).

The Tribunal has relied upon the Trade Notice No. F. 267/17/88-CX. B, 19-2-1988 which recognises that the certificates issued by the Public Sector Undertaking/Canalising Agencies like MMTC/STC are duty paying documents. Learned SDR is not correct in his submission that this trade notice of 19-2-1988 is not relevant to the issue in dispute and in fact, it is very germane to the issue and directly covers the case of the appellants. His argument that it is only the certificates issued by MMTC/STC who have been authorised by the Trade Notice to issue certificates for availment of proforma credit (and subsequently extended to Modvat credit) has been explicitly negatived in para 6 of the order of the Tribunal (supra). To our minds there is no distinction between Devi Dayal and Mahendra Corporation case (supra) and this appeal. Accordingly following the above ratio, we hold that the appellants are entitled to the benefit of Modvat credit during the period on the basis of the certificates issued by Hindustan Copper Ltd., set aside the impugned order and allow the appeal as already pronounced in open court.

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