Collector of Central Excise Vs. Mohan Crystal Glass Works

Collector of Central Excise Vs. Mohan Crystal Glass Works

SooperKanoon Citation : sooperkanoon.com/7635

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-06-1994

Reported in : (1994)(73)ELT214TriDel

Appellant : Collector of Central Excise

Respondent : Mohan Crystal Glass Works

Judgement :
1. The issue for determination in the above appeal filed by the Revenue against the order of Collector of Central Excise (Appeals), Ghaziabad is whether modvat credit is available on gate passes endorsed by an authorised agent of the consignor of inputs. The respondents herein who are manufacturers of glass bottles availed modvat credit amounting to Rs. 3,08,421 during the period August and September 1991 and January 1992 on the basis of GP 1s which were issued by M/s. Gujarat Heavy Chemicals, Veraval in respect of soda ash, in favour of M/s. Haryana Sheet Glass Ltd. Sonepat. The gate passes were endorsed in favour of the respondents by an authorised agent of the supplier of inputs i.e.

M/s. Gujarat Heavy Chemicals and it certified that the entire consignment covered under 27 gate passes in question had been diverted in entirety in original packing to the respondents. According to the Revenue, the endorsement on the gate passes is not in conformity with the requirement of Rule 57G under which a valid endorsement is only the one effected by the consignee. The Assistant Collector confirmed the demand holding that the inputs had not been received under proper duty paying documents. The lower appellate authority accepted the contention of the assessees that the requirement of Rule 57G stood substantially complied with and set aside the order of the adjudicating authority holding that the assessees were entitled to the benefit of modvat credit on the concerned gate passes. Hence this appeal.

2. We have heard Shri K.N. Gupta, learned DR and Shri Lachhman Dev, learned Consultant.

3. We find that the Collector (Appeals) has satisfied himself as to the reason for diversion of the consignments during the relevant period from M/s. Haryana Sheet Glass viz. the urgent requirement of the respondents of stock of inputs and that the consignor had agreed to divert the consignments to the respondents. Learned SDR has not advanced any argument to dislodge the subjective satisfaction of the lower appellate authority. The goods reached the factory of the respondents in original packing. In addition the respondents had drawn our attention to the letter dated 7-3-1992 addressed to them by the North Regional Manager of M/s. Gujarat Heavy Chemicals which contains details of all the 27 relevant gate passes and specifically confirms the fact that modvat claim against those gate passes has not been made by M/s. Haryana Sheet Glass, [This letter was also produced before the Collector (Appeals) as is evident from the copy of the appeal memo filed by the respondents herein to the Collector (Appeals)]. The original consignee namely M/s. Haryana Sheet Glass had also issued a letter dated 4-4-1992 certifying that they did not receive the consignments covered by the 27 gate passes which had been diverted by the consignors to the respondents and that M/s. Haryana Sheet Glass had not claimed any modvat in respect of these consignments. The receipt of the inputs duly covered by gate passes inside the factory premises of the respondents is not disputed. Accumulative reading of all the above facts would establish substantial compliance with the provisions of 57G. Therefore, we are satisfied that in the facts and circumstances of this case, the respondents are entitled to the benefit of modvat credit on the gate passes endorsed by the consignors. Accordingly, we confirm the order of the Collector (Appeals) and reject the above appeal.