Commissioner of C. Ex. Vs. Mukesh Engineering Industries

Commissioner of C. Ex. Vs. Mukesh Engineering Industries

SooperKanoon Citation : sooperkanoon.com/8794

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-11-1995

Reported in : (1996)(83)ELT641Tri(Mum.)bai

Appellant : Commissioner of C. Ex.

Respondent : Mukesh Engineering Industries

Judgement :

1. There is a delay of 23 days in filing the appeal. After hearing both the sides, I condone the delay and with the consent of both the sides, I take up the appeal itself for disposal.

2. The appeal from the revenue is against the Order-in-Appeal No. NK (927) 292/95, dated 18-5-1995. The issue relates to denial of Modvat credit in respect of 2 items viz. Reduction gear box and DC drive, only on the allegation that they were not specifically declared under Rule 57G of the Central Excise Rules. There is no dispute that these 2 inputs are otherwise eligible for Modvat credit. In the declaration, the inputs are declared as gear box and speed regulator. Even according to the technical opinion, gear box is admittedly one which varies speed either by increasing or decreasing and reduction gear is meant for reducing the speed. DC Drive likewise also performs the function of regulating speed. In the case of DC drive, this Bench vide Order No.370/95/WRB, dated 20-2-1995 have held that the description 'speed regulator' could be construed to be DC drive and the objection of the Department was not accepted. In the case of gear box, the same latitude is to be applied, because it is also a mechanism for regulating speed

and both the gear box and reduction gear box fall in the same chapter heading and sub-heading and there is no dispute on this. When it is also not disputed that the items brought into the aforesaid heading are otherwise for eligible for Modvat credit and when the description also has nexus with the inputs otherwise, the substantive benefit of Modvat credit cannot be denied. I, therefore, dismiss the revenue appeal.