

**Electrical Devices Vs. Collector of Central Excise**

**Electrical Devices Vs. Collector of Central Excise**

**SooperKanoon Citation :** [sooperkanoon.com/8822](http://sooperkanoon.com/8822)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Oct-19-1995

**Reported in :** (1996)(85)ELT278TriDel

**Appellant :** Electrical Devices

**Respondent :** Collector of Central Excise

**Judgement :**

1. The above appeal arises out of the order of the Collector (Appeals) upholding the decision of the Assistant Collector of Central Excise that the appellants are not eligible for Modvat credit of Rs. 53,469.29 P. availed during the period April, 1990 to July, 1990 on inputs used by them in the manufacture of their final product Electric motors which had not been declared in the declaration filed under Rule 57G(1) of the Central Excise Rules, 1944.

2. Shri R.K. Jain, learned Consultant appearing for the appellants, submits that the non-mention of Electric motor as a final product in the declaration was due to inadvertence but would however, urge that the intention expressed in the classification list filed with effect from 1-4-1990 to avail Modvat credit on this item and the letter dated 11th January, 1989 addressed to the Assistant Collector, enclosing the photo copies of Gate Passes received for the purpose of availing Modvat facility in the manufacture of final products, establish substantial compliance with the requirement of Modvat Rules. He further submits that since, during the relevant period, there was no prescribed format for making the Modvat declaration, the declaration made in the classification list should be accepted, as

the purpose of Modvat declaration namely, to intimate the Department of inputs and outputs stood satisfied, as the approved classification list above mentioned clearly indicated that the appellants would be availing Modvat on Electric fans and motors and in this connection, he cites the orders of the Tribunal in the case of Thermal Coatings Pvt Ltd. v. Collector of Central Excise Standard Detergents Pvt Ltd. v. Collector of Central Excise, Kanpur [1995 (76) E.L.T. 136 (Tribunal)].

3. Opposing the prayer, the learned DR Shri Mewa Singh submits that the filing of the declaration of final products is a substantive requirement of Rule 57G(1) and cannot be treated as a mere procedural requirement and since admittedly, there has been no declaration in respect of Electric motors, credit has been rightly denied.

4. We have carefully considered the submissions of both the sides. In the letter dated 11th January, 1989, the appellants have referred to the declaration of 26-9-1988 and enclosed photo copies of Gate Passes received till date in order to avail the facility of Modvat credit in the manufacture of final products. In the classification list filed with effect from 1-4-1990, Electric motors have been declared, and on the reverse of the classification list, (which has been approved by the Department), the appellants have clearly stated that they shall be claiming Modvat on items No. 1 and 2 namely Electric fans and motors.

Further, in the orders of the Tribunal cited by the appellants (supra), declaration made by the assesseees in the classification list in regard to the availing of Modvat Scheme was held to be sufficient for the purpose of expending Modvat credit.

In the result, we hold that the appellants are entitled to the benefit of Modvat credit set aside (sic) the impugned order and allow the appeal.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**