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Collector of Central Excise Vs. Vansal Electricals (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-08-1996

Reported in : (1996)(87)ELT285TriDel

Appellant : Collector of Central Excise

Respondent : Vansal Electricals (P) Ltd.

Judgement :

1. This revenue appeal is directed against order-in-appeal No.317-CE/KNP/85, dated 20-9-1985 of Commissioner (Appeals).

2. The issue relates to admissibility or otherwise of proforma credit in case of duty paid stampings and laminations brought into factory as inputs for the manufacture of electric fans when at the intermediate stage electric motors are exempted from duty. 3. Arguing for the revenue the learned D.R. submits that since the electric motors are independently exempted under Notification 28/69, dated 1-6-1969 as amended by Notification 175/73 no credit is admissible and Commissioner (Appeals) has erred in allowing such credit.

4. Arguing for the respondents the learned advocate submits that they do not remove the electric motors from the factory but these motors are captively used in production of electric fans. The credit would have been inadmissible only in case electric motors had been removed from the factory without payment of duty. This is not the case here. In this connection he draws attention to Chandigarh Collectorate Trade Notice 72/80, dated 19-7-1980 reported in 1980 (5) E.L.T. -

T88.

5. We have heard both sides. There is no dispute about the fact that electric motors are not removed from the factory but are used captively in the manufacture of fans. It is now well settled law that even if intermediate products which are fully exempted are produced profroma credit cannot be denied provided goods are captively used in the manufacture of final products. In the result, we reject the revenue appeal and uphold the impugned order.

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