Collector of Central Excise Vs. Him Ispat Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-16-1996

Reported in : (1996)(88)ELT55TriDel

Appellant : Collector of Central Excise

Respondent : Him Ispat Ltd.

Judgement :
1. Case called. Appellant/Revenue is represented by Shri Y.R. Kilania and respondents were represented by Shri Vinod Agarwal, learned Advocate. Heard both sides.

2. The respondents are engaged in the manufacture of cold roll Strip and are availing the benefit of Modvat credit under Rule 57A. According to the department, they availed Modvat credit of Rs. 88,111.80 on 8,820 of Balmerroll Aquaroll HI-20 by using the same as lubricant in machines and in no way used in or in relation to the manufacture of the final product under Rule 57A of the Central Excise Rules, 1944. Assistant Collector who adjudicating the proceedings denied the Modvat credit on the ground that item in question has not been used in or in relation to the manufacture of the final product. On the other hand, Collector (Appeals) on appeal filed by the party, observed that this was used in relation to the manufacture of the finished products and, accordingly, he allowed the appeal.

3. Collector (Appeals) has given a clear finding with reference to the use of the input in the finished products and his findings are in last para of his order. The

same is reproduced as under :- "The case was heard on 14-12-1995 when the same points were repeated by the advocate of the appellants Shri V.K. Agarwal. Later on they submitted a technical write up of Balmerroll Aquaroll H.I. 20 (High Performance cold rolling oil for 20 High Sendzimir Steel Mill). On going through the records of the case and the technical literature I find that the product Balmerol Aquaroll H.I. 20 is used in the manufacture of cold rolled stripes. It cannot be, therefore, said that this product is not being used in relation to the manufacture of cold rolled strips. I, therefore, find no justification in disallowing the Modvat credit on this product especially when use of the products has not been discussed in the Order-in-Original." 4. Collector (Appeals) has given a categorical findings based upon the technical literature placed before him holding that product Balmerol Aquaroll H.I. 20 is used in the manufacture of cold rolled strips. On the other hand, Assistant Collector has neither discussed this aspect nor given a finding about the specific use or non-use of the inputs in the process of manufacture of the finished products. In the circumstances and in view of the clear findings given by the Collector (Appeals) based upon the technical literature, I concur with his finding. In the result, the appeal filed by the department is hereby dismissed.