Bcr Ltd. Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-19-1996

Reported in : (1997)(93)ELT455TriDel

Appellant : Bcr Ltd.

Respondent : Collector of Central Excise

Judgement :
1. These are two appeals filed by M/s. BCR Ltd., involving common issue.

2. The short point to be considered in these appeals is whether parts of paper making machine are eligible for modvat under Rule 57A of the Central Excise Rules, 1944.

3. Shri M.P. Devanath, learned Advocate appearing for the appellants submitted that there were conflicting decisions on the issue of eligibility of Modvat credit in respect of the inputs in question and in view of conflicting decisions the matter has been referred to Larger Bench. Larger Bench in the case of Union Carbide India Ltd., Calcutta and Ors. v. Collector of Central Excise, Calcutta-I and Ors. with a batch of cases, reported in 1996 (15) RLT 144 held that felt, phosphor bronze, stainless steel wire cloth, wire cloth, wire mesh and dandy cloth used in machine or machinery in the manufacture of paper and paper products are not excluded by virtue of Clause (i) of the explanation to Rule 57A and, accordingly, these inputs are eligible for modvat.

4. In the instant case, the Assistant Collector has allowed credit on the inputs except inputs wire and felt on the ground that these inputs were not used in the manufacture of paper. On appeal filed by the Assessee, while upholding the view of the Assistant Collector, Collector (Appeals) observed that from the details of function of these items, it is evident that these are actually needed for performing certain task and are attached to the manufacturing machine to adapt them to a particular use in the process of manufacture of paper. Hence, "Wire & Felt" and "Wire Machine Cloth" which perform a given function in the manufacturing process correctly call within the category of apparatus and appliances used for producing paper. According to him, these items fall within the category of items excluded from the perview of the definition of 'inputs'.

5. Shri Deva Nath submitted that issue with reference to the very items has been discussed and analysed in para 18 of the order of the Larger Bench referred to above and he read the para which is as under :- " 18.(i) Felt Phosphor Bronze, stainless steel wire mesh, lin cloth, Dandy cloth etc. Pulp with excess water comes from the pulp making machine to the paper making machine. Pulp is allowed to fall on phosphor bronze or stainless steel wire mesh. Pulp particles remain on the wire mesh and web of pulp fibre is formed. It moves on moving wire mesh (endless) and is allowed to fall on felt (cotton, woollen or synthetic). The moving felt carries the pulp web to the drier and is calendered or pressed being wound on rolls and treated further.

Wet paper is passsed between Dandy Rolles covered with Dandy cover so as to smoothen the surface of the paper. These articles are damaged in the process and require replacement periodically. They are replaceable goods used in the paper making machine in the course of manufacture of paper. They can be regarded in a way, as parts of the paper making machine or machinery used in the machine or for the purpose of the machine; but by their very purpose, they are goods used in relation to the manufacture of paper or paper products and hence are "inputs" as contemplated in Rule 57A. In the light of what we have indicated abve, the decisions in Collector of Central Excise v. Ashim Paper Products (P) Ltd.(Tribunal) ERB, Andhra Pradesh Paper Mills Ltd. v. Collector of Central Excise 1990 (50) E.L.T. 252 (Tribunal) SRB. Sirpur Paper Mills Ltd. v. Collector of Central

Excise 1991 (56) E.L.T. 649 (Tribunal) SRB are not correctly decided. On the other hand, the decisions in Gujarat Alkalies & Chemicals Ltd. v. Collector of Central Excise. 1989 (41) E.L.T. 424 (Tribunal), WRB. Cominco Binani Zinc Ltd. v. Collector of Central Excise 1990 (48) E.L.T. 283 (Tribunal) SRB. Travancore Cochin Chemicals Ltd. v. Collector of Central Excise 1990 (50) E.L.T 172 (Tribunal) SRB. Collector of Central Excise v. Standard Alkali 1992 (59) E.L.T. 127 (Tribunal), Straw Products Ltd. v. Collector of Central Excise & Customs(Tribunal) ERB, Collector of Central Excise v. Emami Paper Mills Ltd. 1992 (61) E.L.T. 489 (Tribunal) ERB, and Collector of Central Excise v. Bihar Caustic and Chemicals Ltd. 1994 (72) E.L.T. 739 (T) ERB are correctly decided." He submitted that since the issue has already been considered by the Larger Bench, the appeal may be allowed following the ratio of the aforesaid decision.

6. Shri Y.R. Kilania, learned Departmental Representative fairly concedes that this issue has already been considered by the Larger Bench as it was rightly pointed out by the other side.

7. In the facts and circumstances and following the ratio of the Larger Bench decision in the case of Union Carbide India Ltd., referred to above, I hold that items i.e. wire and felt are not excluded by virtue of exclusion Clause (i) of the explanation to Rule 57A of the Central Excise Rules and, accordingly, these inputs are eligible for Modvat credit.

8. In the result, I set aside the impugned order and, accordingly, these two appeals are allowed.