Escorts Ltd. Vs. Commissioner of C. Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-25-1996

Reported in : (1997)(93)ELT459TriDel

Appellant : Escorts Ltd.

Respondent : Commissioner of C. Excise

Judgement :

1. These appeals have also been filed against a common order dated 24-2-1992 passed by the Commissioner of Central Excise, Chandigarh by which the Commissioner (Appeals) has upheld the order of Assistant Commissioner of Central Excise, Patiala denying Modvat credit under Rule 57A of Central Excise Rules on steel crucibles/silicon carbide crucibles, and fibre glass filter cloth/mesh holding that these materials fall under the category of excluded inputs, under Rule 57A being in the nature of apparatus, equipment, etc. These were, therefore, held to be not inputs used in or in relation to the manufacture of pistons and piston rings which are the final products of the appellants, herein.

2. We have heard Sh. P.S. Bedi, ld. Consultant for the appellants, who contended that the matter now stands settled by the Larger Bench decision in the case of Union Carbide India and Ors. v. Commissioner in Final Order No. 1487 to 1502/96-NB, dated 14-6-1996, 1996 (15) RLT 144.

Ld S.D.R. Sh. Mewa Singh appeared for the department.

3. The submissions made have been carefully considered. Rule 57A of Central Excise Rules enables a manufacturer to avail of credit of duty paid on the inputs used in or in relation to the manufacture of specified final product and to utilise such credit towards payment of duty on the final product. The Explanation Clause (i) to that Rule says inter alia, that for the purpose of that Rule "inputs" does not include machines, machinery, plant equipment, apparatus, tools or appliances used for producing or processing of any goods or for bringing about any change in any substance in or in relation to the manufacture of final products.

4. In this case the Assistant Commissioner has held in the case of fibre glass filter mesh that it is used for filteration of molten metal to remove impurities and hence is an apparatus, thus falling under the excluded category of inputs.

5. The appellants have explained that during the piston casting process aluminium alloy enters the mould through the filter mesh to remove oxide inclusion from aluminium alloy melts. Otherwise oxide inclusions would get into the casting and render it unutilisable. The filter mesh has a resin coating and the appellants say that this resin becomes a part of the finished product. After casting solidifies and is taken out of the mould, filter mesh used remains as a part of the riser. The used filter mesh alongwith scrap is remelted. Thus, it is claimed the entire fibre glass filter mesh becomes part of the molten metal charge which is used to make the final product.

6. The Larger Bench decision of the Tribunal (supra) has examined the scope of the exclusion clause in the definition of the term "inputs" in the Explanation to Rule 57A. The Larger Bench held that parts of machine, apparatus, equipment, etc. will not be hit by the exclusion.

In such a view of the matter, the Larger Bench found that in the Calcutta High Court decision in the case of Singh Alloys Steel v.Assistant Commissioner of Central Excise - 1993 (66) E.L.T. 594 goods which are not raw-materials converted into finished products and which are charged into furnace as fettling materials to dissolve and seal the crevices in the refractory walls of the furnace and are consumed in the process have been held to be goods used "in relation" to the manufacture of finished goods. The Larger Bench also held that stainless steel wire mesh used in paper manufacture is to be considered as input being part of the paper making machine, observing that though these are used in the machine or for the purpose of the machine, by their very purpose, they are goods used in relation to the manufacture of paper and hence are "inputs" as contemplated under Rule 57A. The above ratio would apply in the present case also in respect of fibre glass filter mesh judging from the write-up about its role in the piston casting process explained above. Fibre glass filter mesh will, therefore, not fall under the category of apparatus as held in the impugned order, but has to be considered as input used in relation to the manufacture of pistons.

7. In respect of steel/silicon crucibles, the Assistant Commissioner has held that these are used by the appellants for holding molten metal alloys and are in the nature of apparatus and equipments. However, the records do not contain any detailed write-up of the use to which the crucibles are put, and their role in the processing of the final product, unlike in the case of fibre glass filter mesh. Crucible is defined in the Concise Oxford Dictionary as utencil, device or equipment. According to Readers Digest Dictionary, crucible is a vessel made of refractory substance such as graphite or porcelain used for melting, calcining materials at high temperature. The manner of use of the crucibles in this case in detail is necessary to apply the ratio of the Larger Bench decision in Union Carbide case (supra). Since such data is not before us, it will be appropriate to remand the matter to the Assistant Commissioner to consider the issue afresh in regard to the eligibility or otherwise of crucibles to be considered as an input under Rule 57A of Central Excise Rules for modvat purposes, in accordance with law after obtaining the necessary particulars from the appellants and in the light of the ratio of the Larger Bench decision (supra). An opportunity of hearing may also be given to the appellants in the matter.

8. The appeals are disposed of by holding that fibre glass filter mesh will not fall under excluded category of inputs under Explanation to Rule 57A, and that question of eligibility of steel/silicon crucibles should be redetermined by the Assistant Commissioner in the light of the Larger Bench decision in the case of Union Carbide India and Ors.

(supra) for which purpose this aspect of the matter is remanded to that authority.