Collector of Central Excise Vs. Nav Bharat Paper Mills

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-30-1996

Reported in : (1996)(86)ELT501TriDel

Appellant : Collector of Central Excise

Respondent : Nav Bharat Paper Mills

Judgement :
1. By the present appeal, the Commissioner, Central Excise has assailed the order of the Commissioner (Appeals) holding that electrical transformer and electronics panel board are not eligible for Modvat credit under Rule 57Q of the Central Excise Rules, 1944.

2. The facts of the case are that the respondents herein procured electrical transformers and electronics controlled panel boards from the market and claimed Modvat credit on these items under Rule 57Q. The Department alleged that these two items are neither capital goods nor accessories or components and therefore, were not covered by the provisions of Rule 57Q. Accordingly, a show cause notice was issued to the respondents herein asking them to explain as to why Modvat credit should not be denied.

3. Shri Y.R. Kilaniya, the learned DR appearing for the appellant Commissioner submits that transformers and electronics controlled panel boards are neither capital goods nor accessories or components or goods used in the manufacture of the final product. He submits that the items are not covered by the provisions of

Rule 57Q. He submits that no doubt certain items were added under Notification No. 11/95-C.E. (N.T.), dated 16-3-1995 but he submits that the case pertains to the earlier period and therefore, the items added w.e.f. 16-3-1995 cannot qualify for Modvat credit for the period 16-3-1995. He submitted that transformers were added to the list of items of capital goods only w.e.f. 16-3-1995, therefore, they will not be covered for the period prior to that. The ld. DR also submitted that electronics controlled panel boards are not specifically mentioned anywhere either in unamended Rule 57Q or the amended Rule 57Q w.e.f. 16-3-1995. He therefore, submitted that electronics controlled panel board is neither accessory nor a specified capital goods that was specified w.e.f.

16-3-1995 and therefore, it was not eligible to the benefit of Modvat credit. The ld. DR therefore, submitted that the Commissioner (Appeals) had erroneously allowed the appeal of the respondents herein and wrongly granted them the benefit of Modvat credit on the two items in dispute.

4. Shri S.K. Gadhok, the learned Consultant appearing for the respondents submits that transformer is a capital goods item. He submitted that this view has been approved by the department itself by amending Rule 57Q w.e.f. 16-3-1995. He submits that once the department has accepted that the transformer is a capital goods, the date becomes irrelevant. He therefore, submitted that transformer is a capital goods and as such they were entitled to the benefit as has rightly been held by the Commissioner (Appeals).

5. On the question of electronics controlled panel board, the ld, Counsel submitted that electronics control panel board are meant for regulating the supply of electric current in processing of manufacture where the machinery has to work and goods are to be produced, electric supply at a particular amperage and voltage is necessary. This amperage and voltage is provided by electronic control panel board. Thus the electronics control panel board are capital goods. The ld. Consultant submitted that even if they are not taken as capital goods they are in the nature of essential accessories providing the requisite power for operation of the machines used in the production or manufacture of goods. He submitted that accessories and components are covered by Rule 57Q. The ld. Commissioner

(Appeals) had held rightly so. He submitted that in view of the above, the impugned order may be upheld.6. Heard the submissions of both sides. On careful consideration of the submissions, I find that insofar as electrical transformer is concerned, it has already been included as capital goods item w.e.f.

16-3-1995. I do not see any logic not to treat it as capital goods, therefore, the date of declaration of this item becomes immaterial. In this view of the matter, I hold that Modvat credit shall be admissible on electrical transformer.

7. Insofar as electronics control panel boards are concerned, I find that this is a device for regulating the electric supply both in amperage as well as in voltage. In today's advanced technology, machines require a particular voltage and amperage for their functioning. Thus the electronics control panel board is nothing but an accessory in the form of capital goods. I find that even an electric wire is included and finds place under Rule 57Q for purpose of Modvat.

Since the electronics control panel boards are nothing but an essential accessory for proper working of machinery and for production of goods.

I therefore, hold that electronics control panel board are eligible for Modvat credit.

8. Having regard to the above discussion, I uphold the impugned order and reject the appeal.