Man Structurals Ltd. Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-01-1996

Reported in : (1997)(93)ELT457TriDel

Appellant : Man Structurals Ltd.

Respondent : Collector of Central Excise

Advocate for Pet/Ap. : Shri. K.K. Anand

Judgement :

1. The appellants are engaged in the manufacture of Transmission Line Tower Material. In the manufacture of their product they claim to use Hydraulic Mobile Crane in respect of which they had claimed credit of duty under Rule 57-Q. The Assistant Collector did not allow such availment of credit on the ground that such facility would be available only for capital goods used for producing or processing of any goods or for bringing about any change in any substance for the manufacture of final products. The stand taken by the Assistant Collector was that the Mobile Crane in question is being used by them only for handling of material and not for producing or processing or finished goods. This order having been upheld by the Commissioner (Appeals), New Delhi the present appeal has been filed.

2. Shri K.K. Anand learned counsel for the appellant submits that the goods manufactured by them are Transmission Line Towers which are heavy and large in size. While fabricating such towers the use of Mobile crane is essential for

facilitating the manufacturing process. The Transmission Tower is also required to be dipped in molten zinc for galvanisation which process can be conveniently carried out only with mobile crane by dipping the structurals made by them in the molten metal. He relied upon the Supreme Court decision in Collector of Central Excise v. Rajasthan Chemical Works 1991 (55) E.L.T. 444. This judgement of the Supreme Court had been relied upon by the Tribunal in a recent judgement in Commissioner of Central Excise, Triuchirapalli v.M.M. Forgings Ltd. reported in 1996 (15) RLT 374. In that case the Tribunal was concerned with the question whether credit of duty under Rule 57Q read with Rule 57-S was admissible in respect of Forklift. It was held by the Tribunal that the credit was admissible to them under the aforesaid provisions. Learned counsel also relies upon another Tribunal decision in Collector of Central Excise, Meerut v. Novo Udyog Ltd. vide Order No. A/1231-33/96-NB, dated 23-4-1996 [reported in 1996 (88) E.L.T. 532 (Tribunal)]. It was held that EOT crane used by the respondents in the said case for movement of raw material was covered by the said Rule 57-Q.3. The arguments were resisted by Shri Mewa Singh, learned SDR. He supported the order of the lower authorities and submitted that the Mobile Crane in question cannot be said to be used for the manufacture or processing of goods. He pleaded that the appeal may be dismissed and the order in appeal sustained.

4. The submissions of both the sides have been duly taken note of by me. I have also perused the decisions cited at the Bar. In the Novo Udyog Ltd. case, it was held that the wider meaning of capital goods under Rule 57-Q would cover not only items which are bringing about a change but also items which help or assist in the process of manufacture. On this basis benefit under Rule 57-Q was held to be admissible for EOT crane. To similar effect is the subsequent decision of the Tribunal in Commissioner of Central Excise, Triuchirapalli v.M.M. Forgings Ltd. reported in 1996 (15) RLT 374. In this case after examining the scope of Rule 57-Q and 57-S the Bench considered the Supreme Court's judgement in CCE v. Rajasthan Chemical Works and came to the conclusion that forklifts may be granted the benefit under Rule 57-Q for which purpose they remanded the matter to the lower authorities for examining the limited question whether the use of forklift would be essential in the respondents' factory without the use of which they would not be able to manufacture the final product. In the present case, the

impugned order as well as the preceding order in original had been passed on the proposition that the credit under Rule 57-Q is not used in the manufacture of the final product but only for handling of material from one place to another which does not amount to use for producing or processing of finished goods. In view of the Supreme Court judgment in the case of Rajasthan Chemical Works case the handling of material in the course of manufacture has been held to be part of the manufacturing process and use of power for material handling work was held to constitute use of power in the manufacture of the concerned final product. On the above basis handling of material and shifting the goods in the course of manufacture of the product for which purpose the Mobile Crane is used would constitute part of manufacturing process. Accordingly, I hold that the appellants were eligible to get the benefit of Rule 57-Q in respect of the Mobile Crane used by them in their factory for handling of raw materials, semi finished goods etc. in the course of manufacture of their final products. The appeal is allowed.