(2001) 10 P&H CK 0005

In the Punjab And Haryana At Chandigarh

Case No : C.C.E.S. No. 45 of 2001

Commissioner of C. Ex., Chandigarh-I — APPELLANT

Vs

Stelco Strips Ltd. — RESPONDENT

Date of Decision : 12-10-2001

Acts Referred:
Central Excise Rules, 1944 — Rule 57Q(1)
Central Excises and Salt Act, 1944 — Section 35H

Citation : (2002) 79 ECC 450 : (2002) 140 ELT 33

Hon'ble Judges : Jawahar Lal Gupta, J;Ashutosh Mohunta, J

Bench : Division Bench

Advocate : Kamal Sehgal, ACGSC, for the Appellant;

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—Respondent No. 1 is engaged in the manufacture of Flat Rolled products and non-alloy steel. It claimed Modvat credit on "Ammonia Cracking Unit & Nitrogen Gas Generator, Thyristor Panel, Distributor Board/ Electric Control Panel and Ingersol-Rand make Air Compressor". The Assistant Commissioner disallowed the claim. Aggrieved by the order, the respondent filed an appeal. The Commissioner (Appeals) considered the matter and vide order dated May 24,1999 accepted the appeal of the respondent and allowed a credit of Rs. 2,44,740/-, The Revenue filed an appeal, which was dismissed by the Tribunal. Aggrieved by the order, it has filed this petition u/s 35H(1) of the Central Excise Act, 1944. The Revenue maintains that the following question of law arises for the consideration of this Court :-

"Whether Ammonia Cracking Unit & Nitrogen Gas Generator, Thyristor Panel, Distributor Board/Electric Control Panel and Ingersoll-Rand make Air Compressor qualify the definition of capital goods as envisaged under Rule 57Q of the Central Excise Rules, 1944?"

2. A perusal of the order passed by the Tribunal shows that on consideration of

each of the items, it has recorded a firm finding that the above-mentioned items are "eligible as capital goods under Rule 57Q(1)(b)........"

Nothing has been pointed out to show that this finding is not correct. In fact, it has been conceded that subsequently a specific provision has been made, as a result of which the items are recognised as entitled to the Modvat credit.

3. Mr. Sehgal submit that for the period from April, 1994 to June, 1994 the credit was not admissible.

4. This Court is not in a position to determine the exact purpose or use of each of the parts of the equipment involved in the process of manufacture. The matter has to be primarily considered by the experts in the field. The Commissioner and the Tribunal have given a concurrent finding in favour of the respondent. We find no ground to take a different view.

5. No question of law arises which are require an expression of opinion by this Court.

6. Resultantly, the petition is dismissed in limine.