(2001) 10 P&H CK 0154

In the Punjab And Haryana At Chandigarh

Case No : C.C.E.S. No. 43 of 2001

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

Vs

Khanna Malleale — RESPONDENT

Date of Decision : 12-10-2001

Acts Referred:
Central Excises and Salt Act, 1944 — Section 35H

Citation : (2002) 79 ECC 446 : (2002) 100 ECR 8 : (2002) 140 ELT 340

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.—The respondent-assessee is engaged in the manufacture of C. I. Pipes. It claimed a Modvat credit of 8,656/- on the grinding wheels. The claim was disallowed by the Deputy Commissioner on the ground that the Modvat credit was not admissible under Rule 57A of the Central Excise Rules, 1944. Aggrieved by the order, the assessee filed an appeal before the Commissioner (Appeals). Vide order dated February 11, 1999 the appeal was allowed. Aggrieved by the order, the Revenue filed an appeal before the Tribunal. It was dismissed vide order dated June 20, 2000. The petition for reference having been dismissed, the Revenue has now approached this Court with a petition u/s 35H(1) of the Central Excise Act, 1944. The Revenue maintains that following substantial question of law arises for consideration of this Court :-

"Whether the Tribunal is correct in allowing Modvat credit on ''grinding wheels'' as inputs under Rule 57A of the Central Excise Rules, 1944 whereas the grinding wheels are in the nature of tools?"

2. Mr. Kamal Sehgal, learned Counsel for the Revenue, contends that the grinding wheels are not directly used in the manufacture of the pipes/Thus, the Modvat credit is not admissible under Rule 57A of the 1944 Rules.

3. The Commissioner has found that the grinding wheel is a "necessary input used in relation to the manufacture of a final product." It has been affirmed by the Tribunal. Nothing has been pointed out to show that this finding is wrong.

4. Still further, the total amount involved is Rs. 8,656/- only.

5. In the circumstances of the case, we find that no question of law arises for the consideration of this Court.

6. The petition is, accordingly, dismissed in limine.

