(2002) 03 P&H CK 0096

In the Punjab And Haryana At Chandigarh

Case No : CCES No. 106 of 2001

Commissioner of Central Excise APPELLANT

Vs

Avon Cycles Ltd. RESPONDENT

Date of Decision : 19-03-2002

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

Citation : (2002) 82 ECC 54

Hon'ble Judges : N.K. Sud, J;Jawahar Lal Gupta, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—The Revenue has filed this petition u/s 35H(1) of the Central Excise Act, 1944 with the prayer that the Tribunal be directed to refer the following two questions for the consideration of this Court:

(i) Whether during the relevant period only those items were covered under the definition of capital goods which were used for producing or processing of any goods or for bringing about any change in any substance for the manufacture of final products or which found mention under Sub-clause (d) of Clause (1) under Explanation to Rule 57Q of Central Excise Rules, 1944.

(ii) The question arises "whether the goods namely Remote Control System for EOT crane falling under Chapter Heading 8526.00 of Central Excise Tariff 1985 (5 of 1986) qualify the definition of capital goods as envisaged under Rule 57Q of Central Excise Rules, 1944.

2. In fact the only dispute is whether a Remote Control System for operating the crane forms a part of the capital goods.

3. Mr. Sehgal, learned Counsel for the Revenue very fairly points out that in view of the decision of a Bench of this Court in C.E.C. No. 45 of 2001 (Commissioner of Central Excise, Chandigarh v. Stelco Strips Ltd. and Anr.) decided on October

12, 2001 and Commissioner of Central Excise Coimbatore and Others Vs. Jawahar Mills Ltd. and Others, , the question does not survive for consideration.

4. In view of the above, the petition is dismissed in limine.