(2010) 03 P&H CK 0301

In the Punjab And Haryana At Chandigarh

Commissioner of Central Excise APPELLANT

Vs

BCR Ltd. RESPONDENT

Date of Decision : 22-03-2010

Acts Referred:
Central Excise Rules, 1944 — Rule 57A

Citation : (2010) 26 STT 207

Hon'ble Judges : Mehinder Singh Sullar, J;Ashutosh Mohunta, J

Bench : Division Bench

Judgement

Ashutosh Mohunta, J.—The Customs, Excise and Gold (Control) Appellate Tribunal has referred the following question of law for adjudication by this Court:

Whether the Hon''ble Tribunal are correct in holding that the parts of machines/ machinery are eligible for availing MODVAT Credit under Rule 57A of the Central Excise Rules, 1944, when such machines, machinery, plant, equipment apparatus, tools or appliances from such eligibility in terms of the Explanation under the same very rule?

2. The provisions of Rule 57A granting incentive to the manufacturer was inserted in order to expend the business premises in India. The combined reading of this provision would reveal that the manufacturer is entitled to claim the Modvat credit on such finished excisable goods as the Central Govt. may notify and the credit of specified duty under this section shall be allowed on the inputs used in the manufacture of final products as well as on inputs used in or in relation to the manufacture of the final products whether directly or indirectly and whether contained in the final product or not. According to Section 57B, the manufacturer of final products shall be allowed to take credit of the specified duty paid on the inputs used in or in relation to the manufacture of final products, whether directly or indirectly and whether contained in the final products or not, namely, (i) the inputs, which are manufactured and used within the factory of production, but according to Section 57B(2), the manufacturer of the final products shall not be allowed to take credit of the duty paid on

machines, machinery, equipment, apparatus, tools, appliances or capital goods.

3. It means, the assessee is entitled to avail the Modvat credit on the inputs/ material used in or in relation to the manufacture of the final products whether directly or indirectly and whether contained in the final product or not.

4. In Collector of Central Excise, Bangalore Vs. Escorts Mahle Ltd., , the Hon''ble Supreme Court has held that the matter used in the manufacture of final products would be eligible Modvat credit being an input.

5. In this case, the material being used for manufacture of inputs in respect of explosives is termed as machinery. In fact, in Escorts Mahle Ltd''s case (supra), even parts of machinery, would be eligible for Modvat credit. Similar view was taken by the Apex Court in case M/s. Jaypee Rewa Cement Vs. Commissioner of Central Excise, M.P., , wherein it was held that the inputs used in the manufacture of intermediate products that is limestone, which subsequently used in the manufacture of cement was entitled to Modvat credit.

6. In view of the above, we hold that the manufacturer would be entitled to claim Modvat credit. Resultantly, the question posed is answered in favour of the assessee and against the revenue.