(2002) 04 P&H CK 0051

In the Punjab And Haryana At Chandigarh

Case No : CCES No. 117 of 2001

Commissioner of Central Excise, Chandigarh	APPELLANT
Vs	
Vimal Alloys (P) Ltd.	RESPONDENT

Date of Decision : 23-04-2002

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

Citation : (2002) 143 ELT 493

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

Bench : Division Bench

Advocate : Rajesh Gumber, ACGSC, for the Appellant;

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—This is a petition u/s 35H(1) of the Central Excise Act, 1944. The Revenue maintains that the following three questions arise for the opinion of this Court:

1. "Whether the foundry fluxes and the other chemicals used in manufacture of ''Sand Moulds'' which in turn are used in manufacture of castings can be said to be input''s for castings when such foundry fluxes and chemicals are not directly or indirectly used in manufacture of castings ?

2. Whether the Modvat credit on these inputs could have been allowed under Rule 57A of the Rules when said Rule 57A did not provide taking of the Modvat credit on such inputs which were used in or in relation to the manufacture of capital goods used in the manufacture of fi-naf products and which were not the final product itself as such ?

3. Whether the credit on these items could have been allowed under Rule 57A of the Rules which stated that the credit of duty was allowed, which had been paid on the goods used in or in relation to the manufacture of final product, but did not include machines, machinery, plant, equipment, apparatus, tools or

appliances used for producing or processing of any goods or for bringing about any change in any substances in or in relation to the manufacture of final products (which amply clarifies that the credit on these items was not admissible under Rule 57A of the Rules?"

2. Mr. Gumber states that a similar matter has been considered by this Court in Collector of Central Excise, Chandigarh v. M/s. Zenith Papers, GCR No. 14 of 1999, decided on January 14, 2002. The plea of the Revenue was rejected.

3. For the reasons given in the case of Zenith Papers, the petition is dismissed in limine.

