

(2015) 09 AHC CK 0188
In the Allahabad High Court

Case No : Central Excise Reference Nos. 23 of 2002 and 1 of 2011

Uni Cast Pvt. Ltd. and Others

APPELLANT

Vs

Commissioner of Central Excise, Meerut and Others

RESPONDENT

Date of Decision : 29-09-2015

Acts Referred:

Citation : (2015) 9 ADJ 655 : (2016) 331 ELT 369 : (2016) 36 GSTR 449

Hon'ble Judges : Tarun Agarwala and Surya Prakash Kesarwani, JJ.

Bench : Division Bench

Judgement

Tarun Agarwala, J.—The applicant M/s. Uni Cast Pvt. Ltd. is a job worker of Paharpur Cooling Towers Ltd. (PCT) and received the raw material from PCT for execution of job work and supply of the final product to PCT. PCT purchased the inputs needed from different manufacturers. Invoices were raised by these manufacturers on PCT, which showed payment of duty on the excisable inputs. On these invoices, PCT made an endorsement in favour of the applicant and the inputs were received directly by the applicants. The applicant took credit of duty paid on these inputs on the basis of the invoice in the name of PCT and utilized the same towards payment of duty on the final product manufactured as per the job contract. The applicant claimed MODVAT credit for the period April to August, 1994. A show cause notice was issued contending that MODVAT credit was obtained on the strength of invoice endorsed by PCT in their favour, which is inadmissible as endorsed invoices were not proper documents for the purpose of availing MODVAT credit under Section 57A and 57G of the Central Excise Rules, 1944. Subsequently, the authorities disallowed the MODVAT credit on the ground that endorsed invoices were not valid documents for taking MODVAT credit, inasmuch as there was no mention of any particulars indicating payment of excise duties on the document accompanying the endorsed invoices. Being aggrieved, the applicant filed an appeal before the Tribunal, who rejected the appeal in view of the Larger Bench decision of the Tribunal in the case of M/s. Balmer Lawrie and Com. Ltd. Vs. CCE, Kanpur, 2000 (116) ELT 365. The applicant being aggrieved, filed a reference application under Section 35H, which

was allowed. The High Court directed the Tribunal to draw a statement of case and refer the following substantial question of law, namely:

"(i) Whether M/s. PCT Ltd. having supplied the raw material to the applicant having company (job worker) and the applicant having received the said raw material directly from the supplier, was entitled for the benefit of MODVAT credit under the Central Excise Rules?

(ii) Whether, admittedly the applicant being the job worker and the inputs having been dispatched to the job work's factory premises hence in view of the Circular No. 146/57/95-CE, dated 12th May, 1995, the applicant was entitled to the benefit of MODVAT credit?

(iii) Whether MODVAT Rules only require that there may be a document showing proof of payment of excise duty and the certificate contained in the invoice was only to show that the inputs are being dispatched to the job worker's factory premises even though the said invoice was in the name of M/s. PCT Ltd. for whom the job work was done by the applicant showing proof of the payment of duty, the applicant was entitled for the MODVAT credit?

(iv) Whether when the manufacturer is a job worker, the inputs are not being purchased by him and therefore the invoices in respect of the inputs cannot be in his name?

(v) Whether in the absence of transfer by title by endorsement in the documents of title, the property in the good is never transferred by the endorser in favour of the endorsee and the Appellate Tribunal was not justified in denying the benefit of MODVAT credit to the applicant on the ground that they were not concerned with the nature of the endorsement made by M/s. PCT Ltd.?

(vi) Whether there being no sale of the inputs to the applicant by M/s. PCT Ltd. or anyone else, there can be no invoice in the name of the applicant hence the applicant was entitled for the benefit of MODVAT credit & since PCT Ltd. is not a dealer, hence it was not required to follow the procedure in terms of Rule 57-GG?"

2. Accordingly, the Tribunal has referred the aforesaid questions of law for opinion of the High Court.

3. Balmer Lawrie and Company are manufacturers of steel metal containers (drums). Invoices were issued by SAIL in favour of M/s. IOC Ltd., Mathura, who in turn, endorsed these invoices to the applicant. The applicant availed MODVAT credit on the inputs received for the month of October to December, 1994 on the basis of the invoices issued by SAIL to IOC, Mathura, which was subsequently, endorsed by IOC, Mathura to the applicant. The department was of the view that the applicant was not eligible for MODVAT credit on the basis of endorsed invoices as it was not a valid document for availing MODVAT credit and, accordingly, a show cause notice was issued and the MODVAT credit was disallowed and a penalty was imposed. The applicant filed an appeal before the Tribunal, which was dismissed by the Larger Bench of the Tribunal. The applicant

thereafter, filed a reference under Section 35H, which was allowed and the Tribunal was directed to send the statement of case along with the following questions of law, namely:-

"1. Whether, Steel Authority of India Limited having supplied the steel to the applicant-appellant (job worker) under the instructions of Indian Oil Corporation Ltd. for converting it into drums (metal containers), the applicant was entitled for the benefit of MODVAT credit under Central Excise Rules?

2. Whether, in the absence of transfer of title by endorsement on the documents of title, the property in the goods is never transferred by the endorser in favour of the endorsee and the Appellate Tribunal was not justified in denying the benefit of the MODVAT credit to the applicant on the ground that they were not concerned with the nature of endorsement made by Indian Oil Corporation Ltd.?

3. Whether, the applicant was entitled for the benefit of MODVAT credit of duty under Rule 57A of the Central Excise Rules and the order of the Appellate Tribunal denying the benefit is erroneous?"

4. We have heard Sri Piyush Agrawal, the learned counsel for the applicant and Sri Siddharth Shukla and Sri R.C. Shukla, the learned counsel for the respondent.

5. Having heard the learned counsel for the parties, in our view, the short controversy, which pin points the real issue and which arises for consideration is, "whether endorsed invoices are valid documents for taking MODVAT credit after 1st April, 1994." Accordingly, the question of law is modified accordingly as above.

6. Prior to the issuance of Notification No. 15 of 1994 dated 30th March, 1994 gate passes besides bill of entry, AR 1 or any other document as may be prescribed by the Central Board of Excise and Customs were accepted as valid documents under Rule 57G of the Rules for clearing MODVAT credit. The Central Board of Excise and Customs vide circular dated 8th November, 1994 permitted two endorsement on the gate passes as valid documents. Subsequently, vide Notification No. 15 of 1994 dated 30th March, 1994 invoices in place of gate passes were prescribed as valid documents along with AR-1 or bill of entry under Rule 57G for availing MODVAT credit. This Notification No. 15 of 1994 created difficulties to the genuine end users of the goods where MODVAT credit was being made on the basis of gate passes. In many cases, gate passes were issued prior to 30th March, 1994 but the goods were not received after 30th March, 1994. It was made clear that MODVAT credit could be taken on or before 30th June, 1994 on the strength of gate passes issued before 1st April, 1994.

7. Rule 52A and 57G of the Rules as amended with effect from 30th March, 1994 as extracted hereunder:-

"52A. Goods to be delivered on an invoice. - (1) No excisable goods shall be delivered from a factory or a warehouse except under an invoice signed by the owner of the factory, or his authorised agent:

Provided that when the excisable goods, other than those to which the provisions of Chapter VII-A, are removed on payment of duty such invoice shall be required to be countersigned by the proper officer.

Explanation. - In this rule, and in any other rule, where the term invoice or gate pass, as the case may be, is issued it shall mean-

(i) assessee's own document such as invoice, challans, advice or other document of similar nature generally used for sale or removal of excisable goods and which shall contain all the particulars as required under the said Act or in these rules; or

(ii) such other form as the Central Board of Excise and Customs may notify.

(2) The invoice, shall be made out in quadruplicate. The manufacturer may make extra copies of the invoice for his own use and each such extra copy shall be clearly marked with its sequential number. The duplicate copy shall be produced by the transporter on demand by any officer while the goods are en route to such destination from the factory:

Provided that in respect of removal of excisable goods consumed within the factory for manufacture of other goods in a continuous process, the manufacturer may make out a single invoice, at the end of the day:

Provided further that for any excisable goods, other than those to which the provisions of Chapter VII-A apply, the invoice shall be presented to the proper officer for counter-signature at least one hour before the actual removal of goods from the factory. After counter-signature the proper officer shall return all the copies of the invoice to the manufacturer except the triplicate required for his record.

(4) If all the packages comprising a consignment are despatched in one lot at any one time, only one invoice shall be made out in respect of the consignment. If, however, a consignment is split up into two or more lots each of which is despatched separately either on the same day or on different days, a separate invoice shall be made out in respect of each such lot. In case a consignment is loaded on more than one vehicle, vessel, pack animal or other means of conveyance which do not travel together but separately or at intervals, a separate invoice shall be made out in respect of each vehicle, vessel, pack animal or other conveyance.

(5) Invoice shall be maintained in two sets-

(i) one for clearance for home consumption; and

(ii) the other for clearances for export.

(6) Each invoice shall bear a printed serial. Only one invoice book of each type shall be used by a factory for removal of excisable goods at any one time unless otherwise specially permitted by the [Commissioner] in writing.

(7) Each foil of the invoice book shall be authenticated by the owner of or

working partner or Managing Director/Company Secretary, as the case may be, before being brought into use by the manufacturer. The serial number of the invoice, before being brought into use, shall be intimated to the [Assistant Commissioner of Central Excise] and dated acknowledgement of receipt of such intimation shall be retained by the manufacturer.

(8) If any person-

(a) carried or transports excisable goods from a factory or warehouse without a valid invoice, or

(b) while carrying or removing such goods from a factory or warehouse does not on request by an officer, forthwith produce a valid invoice, or

(c) enters any particulars in the invoice which are, or which he has reason to believe to be false, he shall be liable to a penalty not exceeding three times the value of the excisable goods in respect of which any contravention of the nature referred to in clauses (a), (b) or (c) has been committed and such excisable goods shall be liable to confiscation.

57G. Procedure to be observed by the manufacturer. - (1) Every manufacturer intending to take credit of the duty paid on inputs under Rule 57A or Rule 57B shall file a declaration with the Assistant Commissioner of Central Excise having jurisdiction over his factory, indicating the description of the final products manufactured in his factory and the inputs intended to be used in the said final products and such other information as the said Assistant Commissioner may require, and obtain a dated acknowledgement of the said declaration.

(2) A manufacturer who has filed a declaration under sub-rule (1) may, after obtaining the acknowledgement aforesaid, take credit of the duty on the inputs received by him.

(3) No credit under sub-rule(2), shall be taken by the manufacturer unless the inputs are received in the factory under the cover of any of the following documents, namely:-

(a) an invoice issued by a manufacturer of inputs under Rule 52A or 100E of the said rules;

(b) an invoice issued by the manufacturer of inputs from his depot or from the premises of the consignment agent of the said manufacturer or from any other premises from where the goods are sold by or on behalf of the said manufacturer provided the depot or the premises, as the case may be, is registered under Rule 174;

(c) triplicate copy of a bill of entry;

(d) a certificate issued by an Appraiser of Customs posted in foreign post office;

(e) an invoice issued by a first stage dealer of excisable goods, registered under Rule 174;

- (f) an invoice issued by a second stage dealer of excisable goods, registered under Rule 174 and duly authenticated by the proper officer;
- (g) an invoice issued by a dealer on or before the 31st day of August, 1996;
- (h) an invoice issued by an importer registered under Rule 174 and duly authenticated by the proper officer;
- (i) an invoice issued by an importer from his depot or from the premises of the consignment agent of the said importer provided the said depot or the premises, as the case may be, is registered under Rule 174 and duly authenticated by the proper officer;
- (j) an invoice issued by a first stage or second stage dealer of imported goods registered under Rule 174 and duly authenticated by the proper officer;
- (k) duplicate copy of a bill of entry generated on Electronic data Interchange System installed in any Customs or central Excise Commissionerate;
- (l) a certificate issued by the Superintendent of Central Excise or by the proper officer in the Customs area under Rule 57E; and
- (m) an invoice issued by a manufacturer of final product under sub-rule (3) of Rule 57F or sub-rule (1) of Rule 57S.

Explanation.--For the purposes of this section,--

- (i) "first stage dealer" means a dealer who purchases the goods directly from--
 - (a) the manufacturer under the cover of an invoice issued under Rule 52A or Rule 100E or from the depot of the said manufacturer or from any other premises from where the goods are sold by or on behalf of the said manufacturer, under cover of an invoice issued under Rule 57G; or
 - (b) an importer or from the depot of an importer or from the premises of the consignment agent of the importer, under cover of an invoice issued under Rule 57G.
 - (ii) "second stage dealer" means a dealer who purchases the goods from a first stage dealer.
- (4) No credit shall be taken by the manufacturer in respect of invoices referred to in clause (g) of sub-rule (3) after the 30th September, 1996.
- (5) Credit shall also not be taken by the manufacturer after six months of the date of issue of any document specified in sub-rule (3) and where the intermediate products manufactured by the user of inputs specified under Rule 57J are received by the manufacturer, after nine months.
- (6) Notwithstanding anything contained in sub-rule (3) or Rule 52A?
- (i) a manufacturer may take credit on inputs received in his factory; or

(ii) a person registered under Rule 174 for issue of invoice under Rule 57G, or as the case may be, under Rule 57T may make receipt entries in register maintained under Rule 57GG.

On the basis of?

(a) original invoice, if duplicate copy of the invoice has been lost in transit; or

(b) a certificate issued by the proper officer of Customs at the port/airport of the importation of such goods, if triplicate copy of bill of entry or duplicate copy of bill of entry generated on Electronic Data Interchange System installed in any Customs or Central Excise Commissionerate, as the case may be, has been lost in transit, subject to the satisfaction of the Assistant Commissioner of Central Excise that the inputs have been received in the factory of the said manufacturer or, as the case may be, the said person registered under Rule 174, and the duty was paid on such inputs:

Provided that no credit or receipt entry, shall be allowed under this sub-rule after six months of the date of issue of the said invoice or bill of entry, as the case may be, and where the intermediate products manufactured by the user of inputs specified under Rule 57J are received by the manufacturer, after nine months.

(7) A manufacturer of the final products shall maintain,?

(a) an account in Form R.G. 23A, Parts I and II;

(b) in respect of duty payable on final products, an account-current with adequate balance to cover the duty of excise payable on the final products cleared at any time.

(8) A manufacturer of final products shall submit within five days after the close of each month to the Superintendent of Central Excise, a monthly return indicating the particulars of the inputs received during the month and the amount of credit taken. The manufacturer shall also submit original duty paying documents and extracts of Part I and Part II of For R.G. 23A maintained along with the monthly return to the Superintendent of Central Excise, who shall after verifying their genuineness, deface such documents and return the same to the manufacturer:

Provided that the Commissioner may having regard to the nature, variety and extent of production or manufacture or frequency of removals--

(i) fix in relation to any assessee or class of assesses a period shorter than one month for filing the aforesaid return;

(ii) permit that the aforesaid return may be filed by the assessee within a period not exceeding twenty-one days after the close of each month:

Provided further that in respect of a manufacturer availing of any exemption based on the value or quantity of clearances in a financial year, the provisions of

this sub-rule shall have effect in that financial year as if for the expression "month", the expression "quarter" were substituted.

(9) Where a manufacturer was, for sufficient reasons, not in a position to make a declaration under sub-rule (1) and makes the declaration subsequently, the Assistant Commissioner may, subject to the provisions of sub-rule (10) and for reasons to be recorded in writing, condone the delay in filing of such declarations and allow the manufacturer to take credit of the duty already paid on the inputs.

(10) The Assistant Commissioner shall not condone the delay unless he is satisfied that:

(i) the inputs were received in the factory not before a period of six months from the date of filing of such declaration;

(ii) the amount of duty for which credit is sought has actually been paid on such inputs; and

(iii) the inputs have actually been used or are to be used in the manufacture of final products."

8. As a result of the aforesaid amendment, MODVAT credit could be availed on the basis of an invoice but not on the basis of a gate pass. Further, two endorsement on the gate pass was done away. This caused unavoidable expenditure on account of double transportation and material handling besides loss of time, inasmuch as some of the inputs on which MODVAT credit was taken had to be initially sent to another manufacturer, namely, the job worker who after processing returned it to the manufacturer. As a result of the amendment made in Rule 57G, the manufacturer was required to clear the goods under Rule 57G(1)(ii) on payment of duty. The job workers would take the MODVAT credit and cleared the products manufactured out of the said inputs on payment of appropriate amount of duty to the manufacturer. This resulted in double transportation and expenses, namely, that the input was first received by the manufacturer, who in turn, again transported the same to the job worker, who processed the same and, thereafter, returned the same to the manufacturer. Considering the aforesaid factor and the genuine difficulties faced by the genuine users of the end product, the Central Board of Excise and Customs issued a Circular No. 146/57/95-CX, dated 12th September, 1995. For facility, the same is extracted hereunder:

"Government of India Ministry of Finance (Department of Revenue) New Delhi

Subject: Procedural relaxation regarding Modvat Credit.

Representations have been received from the manufacturers that some of their inputs on which Modvat credit is taken by them have to be initially sent to another manufacturer (job workers) for part of the process and then return the same to the manufacturers. For this purpose, the manufacturers clear the goods under Rule 57F(1)(ii) on payment of duty. The job workers take the Modvat

credit and clear the products manufactured out of said inputs on payment of appropriate amount of duty to the manufacturer who had supplied the inputs to said job workers. It is represented that this procedure entails avoidable expenditure on account of double transportation and material handling, besides loss of time.

2. It has been suggested that to get over the difficulties inherent in the existing procedure, the inputs could move directly from the supplier to the job workers without being routed through them. The inputs could be consigned to the job workers directly on account of such manufacturers as in the case of registered dealers.

3. The matter has been examined. Board has earlier issued the Circular No. 96/7/95-CX, dated 13.2.1995 clarifying that where a registered person places an order on a manufacturer for supply and delivery of goods directly to a consumer unit and the goods are accordingly transported from the manufacturer's premises without being brought to the registered person. Modvat could be availed of by the end user in such cases on the duplicate copy of manufacturer's invoice issued under Rule 52-A. This invoice under Rule 52A will however contain, in addition to the prescribed details including the consignee's name and address mentioned therein, the registered person's name and address, on account of whose instructions, the goods have been dispatched. The consignee in this case will be the end user (job worker).

4. It has been decided that the aforesaid circular shall apply mutatis mutandis to those cases also where inputs are supplied to a job worker under the instructions of another manufacturer. In such a situation the consignee will be the job worker and invoice under Rule 52A, in addition to the prescribed details including the consignee's name and address will also bear the name and address of manufacturer on whose instruction the goods have been so dispatched. The duplicate copy of the manufacturer's invoice under Rule 52A will serve as a cover for transport and for availment of Modvat by the input user (job worker).

5. Receipt of this Circular may please be acknowledged.

6. Field formations may please be informed accordingly."

9. Under this circular, it was clarified that where inputs are supplied directly to the job worker under instructions of another manufacturer, in such a situation the invoice bill would contain the name of the manufacturer as well as the name of the job worker.

10. Based on the amended Rule, the department permitted issuance of further invoices prior to the issuance of the circular dated 12th September, 1995 under Section 57G of the Rules but did not allow MODVAT credit on endorsement made on the invoices.

11. The learned counsel for the applicant submitted that the provision of Rule 57G of the Rules is not mandatory and is only procedural and if there is a

procedural lapse it did not mean that MODVAT credit could not be availed. The learned counsel submitted that MODVAT credit was basically a duty collecting procedure, which allowed relief to a manufacture on the duty element borne by him in respect of the inputs used by him. The object behind Rule 57A read with Rule 57G was utilisation of credit allowed towards payment of duty on any of the final products in relation to manufacture of which such inputs were intended to be used in accordance with the declaration under Rule 57G of the Rules. It was contended that payment of such excise duty must be evidenced by relevant document, which in the instant case was not disputed, inasmuch as the invoice issued by the supplier indicated payment of excise duty.

12. On the other hand, the learned counsel for the department submitted that the provision is mandatory and since correct documents were not filed, the applicant was not entitled to avail MODVAT credit since Rule 57G did not allow endorsed documents to be used for the purpose of availing MODVAT credit.

13. Having heard the learned counsel for the parties, we find that it is not in dispute that the applicant received the goods, which was duty paid. It is also not in dispute that the duty paid goods received by the appellant was processed for the ultimate manufacture of the end product and was given to the manufacturer. The only defect in the process of availing MODVAT credit was that the invoice was not marked by the original supplier in favour of the applicant as per the circular dated 12th September, 1995 but the same was endorsed by the manufacturer, namely, PCT. The particulars mentioned in the invoices are not in dispute nor its correctness on duty paid quantity, etc. is doubted.

14. The question whether Rule 57G of the Rules is mandatory or directory and whether it provides for a procedure for availing facility of MODVAT credit or is substantive in nature was considered by a Division Bench of this Court in Commissioner, Central Excise, Allahabad Vs. M/S Hindalco Industries Ltd., wherein the Court, after considering the provision of Rule 52A and 57G of the Rules, held that Rule 57G of the Rules only prescribed the procedure for availing MODVAT credit and did not affect any substantive right. The Court held that from a conjoint reading of Rule 52A and 57G, filing of documents for availing MODVAT credit was only a procedural matter and that MODVAT credit could not be denied on the ground that the documents referred to in the Rules did not strictly comply with the said Rules, especially when it contained the details of payment of dues, description of goods, assessable value, name of address of the factory, etc.

15. In our opinion, we need not dwell any further on this subject. We are in entire agreement with the said decision and we hold that Rule 57G is only procedural in nature.

16. In Commissioner of Central Excise Vs. Chemplast Sanmar Ltd., , the Madras High Court held that MODVAT credit cannot be denied to an assessee on a technical ground that the procedure prescribed for availment of credit was not followed at the material time.

17. In *Ichalkaranji Machine center Pvt. Ltd. Vs. Collector of Central Excise, Pune*, the Supreme Court explained the object and scope of MODVAT credit holding:-

"9. Modvat is basically a duty-collecting procedure, which aims at allowing relief to a manufacturer on the duty element borne by him in respect of the inputs used by him. It was introduced w.e.f. 1.3.1986. The said scheme was regulated under rules 57A to 57J of Central Excise Rules, 1944. Rule 57A entitled a manufacturer to take instant credit of the central excise duty paid on the inputs used by him in the manufacture of the finished product, provided that the input and the finished product were excisable commodities and fell under any of the specified chapters in the tariff schedule. Under rule 57G, every manufacturer was required to file a declaration before the jurisdictional Assistant Collector, declaring his intention to take Modvat credit after paying duty on the inputs. The object behind rule 57A read with rule 57G and rule 57-I was utilization of credit allowed towards payment of duty on any of the final products in relation to manufacture of which such inputs were intended to be used in accordance with the declaration under rule 57G. Rule 57-I referred to consequences of taking credit wrongly.

10. The object of the Modvat scheme was to reduce cost of final product by taking credit for the duty paid on the inputs."

18. Similarly, the Supreme Court in *Madras Cements Ltd. Vs. Commissioner of Central Excise*, held:

"In order to avail of Modvat/Cenvat credit, an Assessee has to satisfy the Assessing Authorities that the capital goods in the form of component, spares and accessories had been, utilized during the process of manufacture of the finished product."

19. In the light of the aforesaid, we find that the identity of the supplier and the genuineness of the transaction is not doubted. There is also no dispute that the inputs were received by the applicant in the factory. There is also no dispute that the inputs were duty paid. It is also not disputed that the inputs were processed and, thereafter, the goods were supplied to the manufacturer. Consequently, when the genuineness of the transaction is established and the inputs received by the applicant has suffered excise duty, there is no reason why the applicant should be denied what is legitimately due to it.

20. In the facts and circumstances of the case, the applicant is entitled to MODVAT credit. Prior to 1st April, 1994 gate passes were considered as valid documents under which goods were cleared by the manufacturer and also could be transferred by a dealer to a third party. Two endorsements were made permissible on the gate passes. Gate passes were omitted under Rule 57G by issuance of Notification No. 15 of 1994 dated 30th March, 1994 and invoices were brought in their place as valid documents under which the goods could be cleared from the factory by the manufacturer or could be further passed on by

the dealer to a third party. Rule 57G as amended provides that no credit shall be taken unless the inputs are received in the factory under the cover of an invoice, issued under Rule 52-A and AR-1 on Bill of Entry evidencing payment of duty on such inputs.

21. From the aforesaid, it is clear that credit would be given on an invoice bill, which indicates payment of duty on such inputs. In the instant case, the invoice bill was produced, which evidenced payment of excise duty on the inputs received by the applicant. The said bill was endorsed by the manufacturer. The mere fact that the certificate issued by the manufacturer did not give the details of payment of duty was immaterial. The amended Rules provided payment of duty and inputs to be indicated in the invoice, which existed as per the invoice supplied by the supplier. The fact that the invoice did not indicate the name of the appellant was only a procedural lapse, which was rectified by the endorsement made by the manufacturer in favour of the applicant. Such endorsement made cannot make the document invalid and, consequently, we are of the opinion that endorsement made by the manufacturer in favour of the applicant on the bills raised by the supplier does not make the invoice invalid and the applicant is entitled to avail MODVAT credit.

22. We, accordingly, hold that endorsed invoices were valid documents for taking MODVAT credit. The question of law is answered accordingly and the reference application is disposed of.