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THE CUSTOMS, EXCISE & GOLD (CONTROL) APPELLATE TRIBUNAL,

West Block No. 2, R.K. Puram, New Delhi - 110066.

BENCH NB (SM)

Appeal No. E/ 1510 / 00 - NB (SM)

Dated : 15/1/2001

CEGAT
NEW DELHI
To,

CCE Chandigarh

In the matter of :

CCE Chandigarh

Appellant

vs.

M/s Aarti steels Ltd.

Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/ 58/2001 / NB (SM)
Dated : 12-1-2001 passed by the Tribunal under Section 35-C(1) of Central Excise
& Salt Act, 1944/Section 129 (B) of the Customs, Act, 1962.

Copy to :

M/s Aarti steels Ltd.,
Focal Point,
Ludhiana (PB)

8/10
Asstt. Registrar
NB (SM)

- 1.
2. CCE / CE / (Appeal) Chandigarh
3. Chief Commissioner of Central Excise / Customs, New Delhi
4. Adv. / Consult. Shri R. Sathyanam, Adv.
C-3/210, Janak Puri,
New Delhi - 110058
5. S.D.R
6. JCDR
7. Bar Association, CEGAT, New Delhi
8. Library, CEGAT, New Delhi
9. Director (Review), C.B.E.C. North Block, New Delhi
10. Guard File.
11. M/s Deeparchic Publications, M-93, Marg-46, Saket, New Delhi.
12. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah Marg, opp. Sachdeva P.T. College of
Defence Colony, New Delhi-110003
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CUSTOMS, EXCISE & GOLD(CONTROL) APPELLATE TRIBUNAL,
NEW DELHI.

E/APPEAL NO. 1510/00-NB(S)

(Arising out of Order-in-Original No. 329/CE/CHDD/2000
dt. 16.02.2000 passed by the Commissioner of Central
Excise (Appeals), Chandigarh).

C.C.E., Chandigarh.

Appellant
(Sh. M.D. Singh, SDR)

vs

M/s. Aarti Steels Ltd.

Respondent
(Sh. R. Santhanam, Advocate)

FINAL ORDER NO. A 158/01/NB(S)/M
(Dated the Jan., 2001)

PER S.S. KANG :

The revenue filed this appeal against the
order-in-appeal dated 16.2.2000 passed by the
Commissioner (Appeals).

Brief facts of the case are that the
respondents are engaged in the manufacture of alloy and
non-alloy steel wire and also availed benefit of MODVAT
credit. During the period from 3/96 to 5/96, the
respondents cleared 162.192 Mts. of tyre beed wire to
M/s. Ralson India Ltd. and M/s. Dewan Rubber India Ltd
against CT-2 certificates. The respondents availed the
benefit of MODVAT credit amounting to Rs. 4,19,189/- on
the inputs used in the manufacture of tyre beed wire.
Notification no. 49/94 provides that tyre beed wires
are exempt from payment of duty when supplied as
intermediate goods to the ultimate exporter. The tyre
beed wires were used by M/s. Ralson India Ltd. and M/s.
Dewan Rubbed India Ltd. in the manufacture of tyres

which were exported. A show cause notice was issued to the respondents on the ground that no MODVAT credit is available on the inputs used in the tyre bead wire cleared at nil rate of duty. The adjudicating authority confirmed the demand whereas the Commissioner (Appeals), in the impugned order, allowed the appeal filed by the respondents relying upon the decision of the Tribunal in the case of J.K. Synthetics Ltd. vs C.C.E. reported in 1996 (87) E.L.T. 389.

Heard both sides.

The contention of the revenue is that tyre bead wires were exempt from whole of the excise duty under notification no. 49/94 CE when supplied as intermediate goods to the ultimate exporter, therefore, these goods have not suffered any duty. The revenue is also relying upon a Circular No. 16/92-CE dated 1.6.92 to say that in such a situation, the manufacturer of intermediate product would not be entitled to avail any MODVAT credit. The Tribunal in the case of Orissa Synthetic Ltd. vs C.C.E. reported in 1995 (77) E.L.T. 350, in a similar situation, held in favour of the manufacturer. The facts in the case of Orissa Synthetic Ltd. are that M/s. Orissa Synthetic Ltd. are availing the credit of duty-paid inputs, which are used by them in the manufacture of MMSF, which cleared by them under notification No. 33/90-CE dated

5.9.90 to another manufacturer without payment of duty. Notification no. 33/90-CE permits the goods to be removed without payment of duty for supply to the manufacturer of final products, which are exported. The MMSF, manufactured by M/s. Orissa Synthetic Ltd, was used in the manufacture of final products, which were exported and the Tribunal, after considering the Circular No. 16/92-CE dated 1.6.92 held that provision of Rule 57-C of Central Excise Rules are not applicable in the case of removal of goods without payment of duty in terms of notification 33/90-CE dated 5.9.90. In the present case also, the tyre bead wire was cleared under notification 49/94, which is parameteria of notification 33/90-CE and the tyre bead wires for use in the manufacture of tyres, which were ultimately exported.

In view of the above decision of the Tribunal, I find no infirmity in the impugned order. The appeal is dismissed.

(S.S. KANG)
MEMBER (JUDICIAL)

Dt. 12th January, 2001.
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