

GRAM : CEGCANAL

REGISTERED/A.D

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

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

Appeal No. E/433/2000/NB(SM)

BENCH-NB(SM)

Dated : 20/2/2001

CEGAT
NEW DELHI
To,

M/s Partap Steel Rolling Mills Ltd
GT Road, Chheharata,
Amritsar - (PB)

In the matter of :

M/s Partap Steel Rolling Mills Ltd

Appellant

vs.

CCE Chandigarh

Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/289/01/NB(SM)
Dated : 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 :

Asstt. Registrar
NB(SM)

1. CCE Chandigarh
2. CCE / CC / (Appeal) Chandigarh
3. Chief Commissioner of Central Excise / Customs. Chandigarh
4. Adv. / Consult. G. Ambwani, Adv
B-553, Malviya Nagar
Jaipur
5. S.D.R-NB(SM)
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
13. M/s Lex Site Com. Ltd., Mumbai
14. Office Copy
15. Cent-em.

Asstt. Registrar
NB(SM)

CUSTOMS, EXCISE & GOLD (CONTROL) APPELLATE TRIBUNAL
NEW DELHI

Appeal No. E/433/2000/NB(SM)

(Arising out of Order-in-Appeal No.94/Dir/P&PR/99 dated
29.10.99 passed by the Commissioner of Central Excise
(Appeals), Chandigarh)

M/s. Partap Steel Rolling Mills Ltd. .. Appellants
(Rep. by None)

vs.

C.C.E. Chandigarh .. Respondents
(Rep. by Shri S.C. Pushkarna, JDR)

FINAL Order No. A/289/01/NB(SM)
dt: 12.2.2001

Per K.K. Bhatia, Member (T):

The Asst. Commissioner of Central Excise, Amritsar Division vide his Order dt. 11.10.95 disallowed the modvat credit amounting to Rs.14,533.60 to the appellants availed by them on the refractory items and further imposed a penalty of Rs.1,000/- on them. The Asst. Commissioner in his order has observed that they filed a declaration in respect of this item under Rule 57-T on 23.8.94 but took the credit on 18.7.94. It is stated that these goods were received by the party on 18.7.94 whereas the declaration was made on 23.8.94, after the receipt of the goods and after availment of credit on 21.7.94. He has observed that the appellants have violated the provisions of Rule 57-T(1). He has further observed that they have also not given any plausible explanation as to how the inputs could be termed as capital goods showing their use in the plant and machinery.

2. On appeal, the Commissioner (Appeals), Chandigarh vide his Order dt. 29.10.99 observed that by their very nature and use, the refractory goods could not be considered as either used for producing or processing of goods or for bringing about any change in substance in the manufacture of steel. He has further observed that they cannot be considered as integral part of plant, machinery or equipment used in the manufacture of steel. He has with this observation dismissed the appeal of the party upholding the order passed by the original authority.

3. The present appeal is against the above order of Commissioner (Appeals). The appellants are not represented. They have sent a letter dt. 23.10.2000 requesting the case to be decided on merits on the basis of their written Memorandum of Appeal. I have heard Shri S.C. Pushkarna, JDR for the respondents. The appellants in their Memorandum of Appeal have relied on the decision in the case of M/s. Indian Seamless Steels & Alloys Ltd. vs. CCE Pune reported in 1999 (113) ELT 222 (T), in which it is held inter alia that modvat credit on refractories as capital goods is admissible under Rule 57Q. Therefore, following the ratio of this decision of CEGAT, the modvat credit on merits is allowed to the appellants. As regards the belated filing of the declaration in respect of this item, the appellants have contended that they had already filed a declaration on 17.6.94, in which this item was reflected. They have further filed a copy of this

declaration along with their appeal. They further stated that their concerned employee was under the impression that the declaration was required to be filed for every consignment. Therefore, he filed a declaration again on 23.8.94 for the refractory bricks. This explanation of the appellants that a general declaration for all the capital goods had already been filed by them on 17.6.94 but they filed a declaration again on 23.8.94 under a mistaken impression, appears plausible and acceptable.

4. The appeal is thus allowed setting aside the order passed by the lower authority.

(Announced and dictated in the Court)

(K.K. Bhatia)
Member (Technical)

MS.
15.2.01