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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/3285-3287/99/NB(SM)

Dated: 20/2/2001

CEGAT  
NEW DELHI

To,

CCE Meerut

In the matter of :

CCE Meerut

Appellant

vs.

M/S S R F Ltd

Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/293-295/01/NB(SM)  
Dated : 15/2/2001 passed by the Tribunal under Section 35-C(1) of Central Excise  
& Salt Act, 1944/Section 129 (B) of the Customs, Act, 1962.

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Kashipur, (U.S. Nagar) Ramnagar Rd.  
Uttaranchal.
2. CCE/CC (Appeal) Ghaziabad
3. Chief Commissioner of Central Excise / Customs. Meerut
4. Adv. / Consult. Sh. Bipin Garg, Adv  
B-1/1738, Vasant Kunj  
N. Delhi - 70
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**In the Custom, Excise & Gold (Control) Appellate Tribunal  
New Delhi**

E/3285-3287/99-NB(SM)

APPEAL NO.....OF 19 (.....)

ARISING OUT OF ORDER IN ORIGINAL/APPEAL NO.

764-766-CE/MRT/99 dt 15-9-99 .....DATED.....

PASSED BY COMMISSIONER (APPEALS) CENTRAL EXCISE

GHAZIABAD (U.P.)

Date of decision 14-2-2001.....

CCE MEERUT

.....APPELLANT (S)

Represented by Sh./Smt. M.D.Singh, SDR

**VERSUS**

M/S S.R.F. LTD

.....RESPONDENT (S)

Represented by Sh./Smt. Bipin Garg, Advocate

CORAM:

.....  
SH. V.K.AGRAWAL, MEMBER (TECHNICAL)  
.....

To be referred to the Reporter or not?

FINAL ORDER NO. A/293-295/01/NBCE/m

V.K.AGRAWAL:

Per.....

In this appeal filed by the Revenue the issue involved is whether modvat Credit under Rule 57A of the Central Excise Rules is available in respect of Tungsten Wire and Triethylene Glycol, used by M/s S.R.F. Ltd.

2. Shri M.D.Singh, Ld. SDR reiterated the submissions made in the grounds of appeal in which it has been mentioned that Tungsten Wire is akin to Machine/Tools/Accessories and as such is excluded from the purview of inputs under Rule 57A. As per the decision of Karnataka High Court in the case of M/s Canara Steel Ltd. Vs. U.O.I. 1998(98) ELT 81 (Kar), the functional utility of the item used would be relevant consideration for determining whether the goods in question are inputs or merely aids for the smooth and proper functioning of the machinery. It is, further, mentioned in the grounds of appeal that Triethylene Glycol is used as solvent for cleaning a filter to make it reusable for passing liquid chemicals for manufacture of final product; that as such it is neither used in the manufacture of final product nor in relation to the manufacture of final product instead it is used in relation to the maintaining of machinery item. The reliance was also placed on the decision in the case of Easter Industries Ltd., Vs. CCE 1997(90) ELT 391.

3. On the other hand, Shri Bipin Garg, Ld. Advocate, submitted that the modvat credit has been allowed to the Respondents by the Tribunal in their own case as reported in 2000(116) ELT 635 (SRF VS. CCE Meerut) ; that the Tribunal had allowed the benefit of

modvat credit in respect the impugned inputs placing reliance on the decision of the Larger Bench in the case of Ramakrishna Industries Ltd. Vs. CCE 1996(82) ELT 575 and decision in ECE Industries Ltd. Vs. CCE 1998(97) ELT 146.

4. I have considered the submissions of both the sides. The manner in which both the impugned inputs are used has been given as under in the Adjudication Order passed by the Assitant Commisioner:-

"Tungsten Wire is used to ionize the air between the chill roll and molten polymer and gives sticky action to chill role. If it will not be used proper casting of molten polymer will not occur. In other words without providing Tungsten Wire the film cannot be stretched on machine direction orientation (MDO) and transverse direction orientation (TDO) which are integral part of polyester film making process.

As regards to Triethylene Glycol the party submitted that, during the process of conversion of melt polymer into polyester film, melt is filtered through a filter which is recyclable after cleaning. Triethylene Clycole is used to clean the filter as it has pro<sup>p</sup>erty to dissolve polyester polymer and clean the dust and

this way Triethylene Glycol works as solvent for cleaning the filter from the dirty polymer and thus Triethylene glycol is essential for the manufacturing process."

5. From the manner of use of both the impugned inputs it is apparent ~~that~~ ~~them~~ both of them are used in or in relation to the manufacture of the final product manufactured by the Appellants. Modvat credit of the duty is available to a manufacture if the inputs are used in or in relation to the manufacture of the final product. The decision of Karnataka High Court in the case of Cannera Steel Ltd. is in respect of products which were treated as part of machinery and, therefore, the Modvat Credit was denied. In the present matter it cannot be claimed that both the impugned products are part of the machinery. Further, the Appellate Tribunal, in the Respondents own case, has allowed the modvat credit in respect of Triethlyne Glycol holding that cleaning process of filter is essential in the manufacture of Polyster Film and Polyster yarn, following the decision of the Tribunal in the case of J.K.Synthatics Ltd. Vs. CCE 1996(85) ELT 47 after considering the decision in the case of

Easter Industries Ltd. I also observe that neither the decision in J.K.Synthetics nor the decision in the case of Ramakrishan Steel Industries were brought to the notice of Bench which decided Easter Industries matter. Moreover the Larger Bench of the Tribunal in C.C.E. Meerut Vs. Modi Rubber Ltd., 2000(119) ELT 197 has held that unless the machinery of the assessee are lubricated with the lubricants, heat will be generated on account of mechanical friction leading to adverse consequences affecting the process of manufacture and <sup>these</sup> ~~these~~ facts would suffice to hold that lubrication of the machine is essential for their working and for the smooth process of manufacture of final products and that it does not matter whether the goods are used in the machinery or for the purpose of the machinery. Following the ratio of the decision in the Respondents own cases, supra, I reject all the three appeals filed by the Revenue.

(V.K.AGRAWAL)

MEMBER (TECHNICAL)

Sunit

15-2-20001