

NOTICE UNDER SECTION 130 (1) OF THE CUSTOMS ACT, 1962/35-C(1) OF THE CENTRAL EXCISE SALT ACT, 1944.

CUSTOMS, EXCISE AND GOLD (CONTROL) APPELLATE TRIBUNAL

WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI - 110066.

F.No. E/2768/99/NB(SM) CO/58/00/42(SM) <sup>BENCH-NB(SM)</sup> Dated 1/3/2001

From : The Registrar,  
CEGAT, New Delhi.

To, CCE Delhi-III

In the Matter of :-

CCE Delhi-III

APPELLANT

Vs.

M/s A.K. Automatics

RESPONDENT

I am directed to transmit herewith a certified copy of Final Order No. A/309/01/NB(SM)

Dated 20/2/2001

passed by the Tribunal under Section 129-B of the Customs Act, 1962, 35-C(1) of the Central Excise & Salt Act, 1944.

Copy to :-

1. Respondent: M/s A.K. Automatics  
Hissar Road  
Rohtak (Haryana)
2. Advocate/Consultant :
3. C. C./C.E. (APPEAL) : New Delhi
4. Asst. Registrar, ERB, CEGAT, Calcutta.
5. Asst. Registrar, SRB, CEGAT, Chennai.
6. Asst. Registrar, WRB, CEGAT, Mumbai.
7. Director of Publication, Customs & Central Excise, C. R. Building, I.P. Estate, New Delhi.
8. Centax Publication (P) Ltd. 1512, Bhisham Pitamah Marg, Opp. Sachdeva P. T. College, Defence Colony, New Delhi.
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10. M/s Capital Law House, 500/7-N, Pandav Road, Vishwas Nagar, Delhi-32
11. M/s. Deeparchie Publications, M-93, Marg-44, Saket, New Delhi.
12. The U.S. (Judicial), CBEC, Min. of Finance, Dept. of Revenue, North Block, New Delhi.
13. J. C. D. R.
14. S. D. R. -NB(SM)
15. Library, CEGAT, New Delhi.
16. Bar Association.
17. Guard File
18. Office Copy
19. Hon'ble Members (1) sh. VK Agrawal, M(T)  
(2)

PL  
Assistant Registrar  
NB(SM)

PL  
Asst. Registrar  
NB(SM)

No. Lexsite

**In the Custom, Excise & Gold (Control) Appellate Tribunal  
New Delhi**

E/2768/99-NB(SM) with  
CO-58/00, NB(SM)  
APPEAL NO.....OF 19 (.....)

ARISING OUT OF ORDER IN ORIGINAL/APPEAL NO.  
956-CE/DLH/99 dt 31-8-99

.....DATED.....

PASSED BY..... COMMISSIONER (APPELS) CENTRAL EXCISE  
NEW DELHI

Date of decision..... 16-2-2001

COMMISSIONER, CENTRAL EXCISE, DELHI III.....APPELLANT (S)

Represented by Sh./Smt..... S.C.PUSHKARNA, JDR

**VERSUS**

M/S A.K.AUTOMATICS.....RESPONDENT (S)

Represented by Sh./Smt..... None

CORAM :

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

To be referred to the Reporter or not?  
*FINAL* ORDER NO. A/309/01/NB  
(S/M)

Per..... V.K.AGRAWAL:

The issue involved in this appeal filed by the Revenue is whether Modvat Credit is available to the Respondents, M/s A.K.Automatics in respect of CRB Plus, Hyspi-Ep, Rx Super and Magna-100 used as coolents in turning and grinding process.

2. When the matter was called no one was present on behalf of the Respondents inspite of notice. I also observed that the Respondents had never earlier appeared when the matter was posted for hearing. I, therefore, take the appeal for disposal after hearing Shri S.C.Pushkarna, Id. DR, and after perusing the records including the Cross Objections, filed by the Respondents.

3. The Id. DR reiterated the grounds as contained in Memorandum of Appeal wherein it is mentioned that the impugned goods are not inputs under ~~of~~ Rule 57A as these are not used in or in relation to the manufacture of final products; that these are used merely for maintenance of the machinery installed. Reliance was placed on the decision in the case of Kanoria Suger & General Mfg Co. Vs. CCE Allahabad 1986(87) ELT 522(T) wherein it was held that any inputs merely making for better operation of the machinery are to remain outside the modvat credit scheme.

4. I have considered the submissions of the Id. DR and perused the records. I observe from the Adjudication Order No. 58/98 dt. 21-5-98 that the impugned goods were used as coolant to cool down the machines inturning and grinding operations. For the purpose of availing of Modvat Credit under Rule 57A, it is not necessary that the inputs should form the part of the final product itself as the ~~same~~ same

could be used directly or indirectly in or in relation to the manufacture of the final product. The Larger Bench of the Tribunal in the case of CCE Meerut Vs. Modi Rubber Ltd. 2000(119) ELT 197 has held, while considering the eligibility of lubricants for input credit under Rule 57A, that unless the machinery is lubricated with the lubricants heat will be generated on account of mechanical friction between the working surfaces of the machinery leading to adverse consequences affecting the process of manufacture and that these facts could suffice to hold that lubricants of the machines is essential for their working and, for that matter, for the smooth process of manufacture of final product. The Tribunal also observed that it does not matter whether the goods are used in the machinery or for the purpose of the machinery. The Tribunal came to the conclusion that lubrication of the machinery is an activity which is concerned with or pertaining to the manufacture of the finished goods. It is rather intergrally connected with the manufacture. The use of lubricants in the machinery is certainly in or in relation to the manufacture of the finished product. In the present matter it is not denied by the Revenue that the impugned goods are used as coolant in turning and grinding operations which shows clearly that these are used in relation to the manufacture of the final goods. Following the ratio of the Larger Bench decision I hold that the input credit is

admissible in respect of impugned goods and accordingly the appeal filed by the Revenue is rejected. The Cross Objection, filed by the Respondent, is also disposed of in the above terms.

(V.K.AGRAWAL)

MEMBER (TECHNICAL

Sunita  
20-2-2001