

GRAM : CEGCANAL

REGISTERED/A.D

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

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

BENCH - NB(SM)

Appeal No. E/1570/98/NB(SM) with
CO/17/00/NB(SM)

Dated : 28/2/2001

CEGAT
NEW DELHI
To,

CCE Chandigarh

In the matter of :

CCE Chandigarh

Appellant

vs.

M/s Escorts Ltd M/s Gange (Sak) Ltd

Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/326-27/01/NB(SM)
Dated : 19/2/2001.....passed by the Tribunal under Section 35-C(1) of Central Excise
& Salt Act, 1944/Section 129 (B) of the Customs, Act, 1962.

Copy to :

Asstt. Registrar
NB(SM)

1. M/s Escorts Ltd
Bahadurgarh
Patiala
2. CCE/CC/(Appeal) Chandigarh
3. Chief Commissioner of Central Excise / Customs. Chandigarh
4. Adv. / Consult.
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. Cor-ens.

Asstt. Registrar NB(SM)

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

APPEAL NO. E/1570/8-NB(S) with CO/17/00-NB(S) OF 19 (.....)

ARISING OUT OF ORDER IN ORIGINAL/APPEAL NO. E/1549/98-NB(S)-with CO/16/99-NB(S)
62/CE/CHD/98

..... DATED 9.2.98

PASSED BY the Commissioner of

Central Excise (Appeals), Chandigarh.....

19.2.2001

Date of decision.....

CCE Chandigarh

..... APPELLANT (S)

Represented by Sh./Smt. A.K. Jain, SDR

VERSUS

M/s. Escorts Ltd.

M/s. Goetze (India) Ltd.

..... RESPONDENT (S)

Represented by Sh./Smt. None

CORAM: Shri P.S. BAJAJ, MEMBER JUDICIAL

To be referred to the Reporter or not ?

FINAL

ORDER NO. A/1000/NB(S) 221-327/01

Dated: 19.2.2001

Per P.S. BAJAJ

NB CO/m/

These two appeals have been preferred by the Revenue against the common order in appeal dated 9.2.98 passed by the Commissioner (Appeals) vide which she had upheld the impugned order in original dated 2.12.94 of the Assistant Commissioner allowing modvat credit in respect of ramming mass to the respondents who were using the same for internal lining/coating of steel crucibles in order to preserve heat during the period the molten

metal was held in crucibles.

2. None has come present on behalf of the respondents though notice for today's hearing was sent to them on 11.1.2001. No request for adjournment had been also received from them. The appeals pertain to the year 1998. Therefore, I proceed to decide the appeals on merits after hearing Shri A.K. Jain, learned SDR.

3. I have heard Shri A.K. Jain, learned JDR and gone through the record.

4. The respondents are engaged in the manufacture of piston rings and cylinder liners falling under Chapter 84 of the Central Excise Tariff. They are using the ramming mass for internal lining /coating of steel crucibles for the purposes of preserving heat during the period the molten metal was held in crucibles. The question as to whether the ramming mass can be said to be modvatable input or not, already stands settled by the Larger Bench of the Tribunal, In CCE-Chandigarh-Vs: A.B. Tools, 1994(71) ELT 776(LB). In that case, it has been ruled by the Bench that the ramming mass is to be considered as input eligible for modvat credit under Rule 57-A of the Central Excise Rules. The ratio of the law laid down in that case has been followed by the Commissioner(Appeals) while upholding the order in original of the Assistant Commissioner for allowing the modvat credit to the respondents in respect of the ramming mass on the ground that they were using the same for internal lining/coating of steel crucibles for preserving heat during the period the molten metal was

held in crucibles.

5. The learned SDR has, however, contended that the ramming mass according to the Revenue neither fell within the definition of 'capital goods' nor 'inputs' and as such no modvat credit could be legally allowed under the Central Excise Rules. But I am unable to subscribe to this contention of the learned SDR in view of the Larger Bench decision of the Tribunal in CCE--Chandigarh--Vs. A.B.Tools (supra). Both the authorities below also taken consistent view that the ramming mass keeping in view the final product of the respondents was to be considered as 'input' which was being used by them in relation to the manufacture of the final product i.e. piston rings. There exists no cogent reason to disagree with their findings for want of any material on the record to falsify the same.

6. Therefore, the impugned order of the Commissioner (Appeals) upholding the order in original of the Assistant Commissioner allowing modvat credit on 'ramming mass' to the respondents does not suffer from any legal infirmity so as to call for any interference in these appeals and as such the same is upheld.

7. Consequently, both the appeals filed by the Revenue being without merit, are ordered to be dismissed.

Dictated and pronounced in the open Court.

(P.S. BAJAJ)
MEMBER JUDICIAL