

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

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

BENCH NB(SM)

Appeal No. E/2047/2000. NB(SM)

Dated : 21/3/2001.

CEGAT
NEW DELHI
To,CCE. Chandigarh.

In the matter of :

CCE. Chandigarh.

Appellant

vs.

M/s Happy forgings Ltd.

Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/396/2001. NB(SM)
Dated : 21/3/2001. 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 Happy forgings Ltd,
Unit - II Kanganaul Road
Luthiana (P.B).
2. CCE/CE/(Appeal) Chandigarh.
3. Chief Commissioner of Central Excise / Customs. New Delhi
4. Adv. / Consult. Shri Jagmohan Bansal Adv.
C/o M/s Happy forgings Ltd.
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
13. ~~M/s Lex Site Com. Ltd., Mumbai-~~
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Asstt. Registrar

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

E/APPEAL NO. 3047/2000-NB(S)

(arising out of Order-in-Appeal No. 1244/CE/CHD/2000
dt. 28.06.2000 passed by the Commissioner of Central
Excise (Appeals), Chandigarh).

C.C.E., Chandigarh.

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

vs

M/s. Happy Forgings Ltd.

Respondent
(Sh. Jagmohan Bansal, Advocate)

Final ORDER NO. A/3990/1/NB
(Dated the 7th March, 2001) *Ge/m*

PER S.S. KANG :

Revenue filed this appeal against the order-in-appeal passed by the Commissioner (Appeals) whereby the benefit of MODVAT Credit in respect of tray casting, as capital goods, was allowed.

Heard both sides.

The contention of the revenue is that tray casting is classifiable under sub-heading 7325 of the Central Excise Tariff and this heading is not covered under the definition of the capital goods during the period from October, 98 to December, 98.

The contention of the respondents is that the furnace, which is classifiable under heading 8514 is specifically included in the definition of the capital goods. The definition of the capital goods also includes parts of the machine and machinery. The respondents relied upon the Board's Circular No. 276/110/97 TRU dated 2.12.96 wherein the board has

clarified that the parts of specified goods, falling under chapters 82, 84, 85 & 90 are eligible for the benefit of MODVAT Credit as capital goods irrespective of their tariff headings.

In the impugned order, the Commissioner (Appeals) gave a specific finding that tray castings ~~falling~~ - falling under tariff heading 7325 are used as ^{parts of} ~~items~~ _{furnance} falling under tariff 8514. The furnace falling under 8514 is eligible for MODVAT Credit as capital goods. The revenue in the present appeal is not disputing the finding of fact that tray castings is used as part of industrial furnace. Therefore, in view of Board's circular dated 2.12.96, the parts of industrial furnace are eligible for the benefit of MODVAT Credit as capital goods.

In view of above discussion, I find no infirmity in the impugned order. The appeal filed by the revenue is dismissed. (Dictated in Court).

(S.S. KANG)
MEMBER (JUDICIAL)

Dt. 07.03.2001
vk