

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/3457/00 - NB (SM)

Dated : 29/3/2001

CEGAT
NEW DELHI
To,

CCE Chandigarh

In the matter of :

CCE Chandigarh

Appellant

vs.

M/s Rana Mahendra Paper Ltd.

Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/403/01-NB (SM)
Dated : 19-3-2001 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 :

1. M/s Rana Mahendra Paper Ltd.,
(Formerly M/s Agro Board Ltd.,
Vill. Fatehpur ~~Sateb~~ Sailba,
Teh. Kharar, Distt. Rohtak (PB)
2. CCE / CE / (Appeal) Chandigarh
3. Chief Commissioner of Central Excise / Customs. New Delhi
4. Adv. / Consult. Shri Jay Kr. Adv.,
26/1, Sector-45-A,
Chandigarh
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
14. Office Copy
15. M/s Cen - cus Publication
16. M/s Cen Infotech Resources (P) Ltd.

^{BC}
Asstt. Registrar
NB (SM)

^{BC}
Asstt. Registrar

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

No. E/3457/00/NB(SM)

(Arising out of Order-in-Appeal No. 1377//CE/CHD/2000 dated 5.9.2000 passed by the Commissioner of Central Excise (Appeals), Chandigarh)

C.C.E. Chandigarh .. Appellants
(Rep. by Shri M.D. Singh, SDR)

vs.

M/s. Rana Mahendra Paper Ltd. .. Respondents
(Formerly M/s. Agro Boards Ltd.)
(Rep. by Shri Joy Kumar, Advocate)

FINAL Order No. A/403/01/NB (C/m)
dt: 19.3.2001

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

The respondents are the manufacturers of paper and paper boards falling under Chapter 48. They availed modvat credit totally amounting to Rs.1,21,000/- on Electric Control Panel, Transformer and M.C. Stand part as capital goods under Rule 57Q of the Central Excise Rules, 1944. The proceedings were initiated against them and the Addl. Commissioner of Central Excise, Chandigarh vide his Order dt. 8.4.96 denied them the modvat credit by observing that all the items do not qualify to be capital goods in terms of *Rule 57Q and* duty paid on these items was not admissible. He, accordingly, ordered for the recovery of aforesaid amount from the respondents under Rule 57U read with Section 11A of Central Excise Act, 1944.

2. The party filed appeal and the Commissioner (Appeals), Chandigarh vide his Order dt. 5.9.2000 allowed the appeal of the party with the observation

that all these items are essential accessories for the proper working of the machines and are integral part of the paper machinery. Thus, they are fully covered under the definition of the capital goods.

3. The Revenue is in appeal against the above order of the Commissioner (Appeals). I have heard Shri M.D. Singh, SDR for the appellants and Shri Joy Kumar, Advocate for the respondents. It is contended in the Revenue appeal that the definition of capital goods under Rule 57Q clearly excluded the items under consideration since neither they are used in producing/processing of goods nor bringing about any change in any substance in the manufacture of final products.

4. I have considered the submissions made before me. The issue relating to the admissability of the modvat credit on the capital goods under Rule 57Q, now stands finally settled in the Larger Bench decision of the CEGAT in the case of CCE, Indore vs. M/s. Surya Roshni Ltd. reported in 2000 (128) ELT 293 (T - L.B). In this decision, it is held that ^{from} the definition of "Capital goods", ~~whichever~~ ^{shall} be the category to which the goods belong, (1) they must be used for producing the final product; (2) must be used for processing of any goods for the manufacture of final product or (3) used for bringing about any change in any substance for the manufacture of final product. Thus, it is clear that any machine, machinery, plant, equipment, apparatus, tools or appliances, if satisfy any one or more of the

three conditions mentioned therein, such "capital goods" will be entitled to modvat credit". Further, even their components, spare parts and accessories are also to be treated as capital goods entitled to modvat credit, provided they satisfy the same conditions. Further, moulds and dies, generating sets and weigh bridges used in the factory of the manufacture will also be entitled to modvat credit as "capital goods" even if they are not used for producing the final products or used for bringing about any change in any substance for the manufacture of final products.

5. It is observed that neither the Order-in-Original nor the Order-in-Appeal are speaking orders inasmuch as in neither of them, there is ^{any} discussion with regard to the nature of the products under consideration and their use in the manufacturing process undertaken by the respondents. Accordingly, these orders are set aside and the matter is remanded to the original authority for passing a de novo order on taking into consideration the relevant provisions of the definition of the capital goods as provided under Rule 57Q ^{as} and analysed in the above stated decision of the Larger Bench of CEGAT.

6. The original authority shall afford reasonable opportunity to the respondents to state their case before final decision is taken in the matter.

7. The Revenue appeal is thus allowed by remand in the above terms.

(Announced and dictated in the open Court)

(K.K. Bhatia)
Member (Technical)