

Customs, Excise and Gold Tribunal - Delhi

Collector Of C. Ex. vs Atma Plastics Pvt. Ltd. on 25 November, 1995

Equivalent citations: 1996 (82) ELT 159 Tri Del

ORDER P.K. Kapoor, Member (T)

1. This is an appeal filed by the Revenue against the order dated 30-7-1992 passed by the Collector Central Excise (Appeals), Chandigarh. The appellants vide their letter, dated 10-11-1989 had informed the department that they had in stock 20 MT PVC Resin SR 10 which was to be used by them as input in their final product and they had sought permission for availing Modvat credit under Rule 57-H. They had also pointed out that they were not in possession of GP-1 No. 2337 in respect of 10 MT PVC Resin on which Rs. 79,800/- had been paid as central excise duty and that in respect of remaining 10 MT of PVC Resin they had not received GP-1 from the supplier and that they would produce GP-1 in respect of the balance quantity at the later date. The Modvat credit in respect of 10 MT of PVC Resin SR-10 was disallowed by the Assistant Collector. However, by the impugned order the Collector (Appeals) revised the findings of the Assistant Collector and held that the respondents were eligible for the Modvat credit in respect of the entire quantity of 20 MT PVC resin which was lying with them since they had informed the department about this quantity and in respect of 10 MT of PVC Resin for which GP-1 was not available was produced later on.

2. On behalf of the appellant I heard Shri P. Dass, learned SDR who submitted that the impugned order is not sustainable since the appellants were not in possession of valid GP-1 in respect of 10 MT of PVC Resin. He contended that under these circumstances the Assistant Collector had correctly disallowed their claim for availment of Modvat credit in respect of 10 MT of PVC Resin for which the gate pass was not available with the appellants.

3. No one has appeared on behalf of the respondents. I am, therefore, proceeding to decide the appeal on the basis of the submissions made by the appellant.

4. It is seen that from the impugned order that vide their letter dated 10-11-1989 the respondents had clearly stated that in addition to various other inputs 20 MT of PVC Resin SR-10 was lying in their stock for which they may be allowed to avail Modvat in terms of Rule 57(H). They had pointed out that they were in possession of GP-1 No. 2337 in respect of 10 MT of PVC Resin on which Rs. 79,800/- had been paid as excise duty and that in respect of remaining 10 MT of PVC Resin they have not received GP-1 from the supplier and that as soon as it would be received the department would be informed. The Collector (Appeals) had pointed out that the Assistant Collector has not disputed the fact that 20 MT of PVC Resin was lying in the respondents' factory immediately before 15-11-1989 and was available for verification before credit of duty could be allowed on the ground that Rule 57H(i) speaks only about permission to be obtained from the Assistant Collector to take credit on the stock of inputs lying with the assessee and the assessee had, in fact, also produced the gate-pass GP-1 in respect of the balance quantity of 10 MT.

5. In view of the reasons given by the Collector (A) I see no infirmity in the impugned order. The appeal filed by the Revenue is, therefore, rejected.