

Central Excise: Cenvat credit allowed on gift item given with final product: CESTAT

The appellant is engaged in the manufacture of Spray Guns and Spares [Ch. 84]. As a marketing strategy, appellant supplied 'playing cards' as a free gift along with their final product i.e. Spray Guns. Playing cards are procured on payment of excise duty on which appellant availed CENVAT credit.

It is the Revenue contention that the Playing cards are neither inputs nor used in or in relation to the manufacture of final product i.e. spray guns, therefore, credit is not admissible.

The Adjudicating authority denied the CENVAT credit of Rs.49,533/- for the period February, 2008 and this order was upheld by the Commissioner (Appeals).

Before the CESTAT, the appellant submitted that the expenses towards purchase of playing cards is borne by the appellant, therefore, cost of playing cards stands included in the final product which suffered excise duty and, therefore, CENVAT credit should be allowed. Reliance is placed on the following decisions wherein credit has been allowed in similar circumstances - Prime Health Care Products - 2010-TIOL-901-HC-AHM-CX; G. S. Enterprises - 2012-TIOL-2044-CESTAT-DEL.

The AR submitted that playing cards purchased and supplied along with final product by the appellants is neither used in the manufacture of spray guns nor is it an accessory to the spray guns and, therefore, it does not qualify as input; merely because it is supplied as free gift to the customers, playing cards cannot qualify as input. [Goran Pharma Pvt Ltd - 2009-TIOL-1515-CESTAT-AHM; G. S. Enterprises - 2002-TIOL-516-CESTAT-DEL upheld by High Court refers].

The Bench observed -

"6. I find that the whole concept of Modvat/Cenvat scheme to avoid cascading effect of tax suffered on input. In that stream whatever input is going into final product either directly or indirectly, duty suffered on that input should be set off and only on value addition duty is levied. In the present case the playing cards even though it does not participate directly in the manufacture of final product i.e. spray guns but undisputedly the same is purchased by the appellant and expenditure of the same stands absorbed in the cost of the final product which ultimately suffered the duty as a whole, therefore, in my considered view the playing cards which is supplied along with final product should be eligible for input credit. The definition of input also clearly suggest that the input need not to be used directly in the manufacture and also not required to be contained in the final product but if it is used even in relation to the final product credit should be allowed. In the present case the playing cards indeed supplied along with final product it fulfilled the criteria of inputs, therefore credit cannot be denied of the duty paid on playing cards...."

Holding that in view of the reasoned judgment of the Gujarat High Court in the case of Prime Healthcare Products and which prevails over all the decisions given by the Tribunal, CENVAT credit in respect of playing cards supplied by the appellant along with spray guns is admissible, the impugned order was set aside & the Appeal was allowed.