



TAX ALERT

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Issue: Whether CENVAT credit admissible on Ingots and billets of thickness of more than 3 inches used for manufacture of MS Bars of 6mm, solely relying on the certificate issued by technical expert for other assessee's factory?

Facts: M/S Salasar Steel Industries were using MS Ingots and billets having thickness of more than 3 inches for manufacture of MS Bars of 6 mm. On the basis of a chartered engineer's certificate issued to other party department alleged that the assessee using ingots and billets of thickness of more than 3 inches cannot be used for manufacture of MS Bars of 6 mm. CENVAT credit on inputs used in the manufacture of MS Bars should be reversed. Hence Show Cause Notice (SCN) was issued for recovery of CENVAT credit of Rs. 26, 64,744/-

Revenue contention: The assessee cannot use ingots and billets of thickness of more than 3 inches for manufacture of MS Bars of 6 mm. CENVAT credit on inputs used in the manufacture of MS Bars should be reversed. Hence demand for recovery of CENVAT credit was issued. Learned AR also argued that the assessee is changing their defense regarding the reason for use of MS Ingots of the size of over 3 inches.

Observations: The department had no proof as to why CENVAT credit should not be allowed to the assessee. Moreover, the possibility of carrying out the manufacturing activity in any other premises has not been ruled out by investigations. It was observed in various cases that even if the manufacturing facility was not available at the premises of the manufacturer, CENVAT¹ credit cannot be denied. The Commissioner (Appeals) also ignored evidence like purchase register and the SCN relied solely on the chartered engineer's certificate, issued for some other assessee.

Held: Held that the aforesaid certificate is not applicable to the present case without doing actual comparison of the machine installed in the assessee's premises. Accordingly revenue's appeal is dismissed.

1Zaveri Pharmapack vs. Mumbai- V reported I 2007 (217) ELT 591

1Commissioner of Central Excise, Aurangabad Vs. Vaishall India Ltd. 2008(224) ELT 246 (Tri-Mum)