

GIB/MH/Eicher Motors/28-01-1999/SC-11

Supreme Court Category : Others

State : Maharashtra

Order No.: GIB/MH/Eicher Motors/28-01-1999/SC-11

Name of Entry :

Eicher Motors Ltd. And Anr vs Union Of India And Ors.

Date : 28-01-1999

Breif Issue :

Facts & Issue Of The Case :

As per the Case, credit facility which is made available could not be allowed to perpetuate and the entire Rule is in the form of a package and it makes it clear that there shall be no credit by rationalising the duty structure making it clear that addition of any input can be utilised up to a particular point of time. Prior to the 1995-96 Budget, the Central excise/additional duty of customs paid on inputs was allowed as credit for payment of excise duty on the final products, in the manufacture of which such inputs were used. The condition required for the same was that the credit of duty paid on inputs could have been used for discharge of duty/liability only in respect of those final products in manufacture of which such inputs were used. Thus it was claimed that there was a nexus between the inputs and the final products.

The stand of the assessee is that they have utilised the facility of paying excise duty on the inputs and carried the credit towards excise duty payable on the finished products. the assessee had already paid the taxes on the basis that when the goods are utilised in the manufacture of further products as inputs thereto then the tax on these goods gets adjusted which are finished subsequently. Thus a right accrued to the assessee on the date when they paid the tax on the raw materials or the inputs and right would continue until the facility available thereto gets worked out or until those goods existed.

Decision of Advance Ruling Authority :

Decision :

Section 37 of the Act does not enable the authorities concerned to make a rule which is impugned herein and, therefore, we may have no hesitation to hold that the Rule cannot be applied to the goods manufactured prior to 16-3-1995 on which duty had been paid and credit facility thereto has been availed of for the purpose of manufacture of further goods