

Commissioner of Central Excise, Delhi-I v. Hero Honda Motors Ltd.

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The Honorable CESTAT Delhi in *Commissioner of Central Excise, Delhi-I v. Hero Honda Motors Ltd.* [1], allowed the Cenvat credit in respect of mirror assembly, sari guard and tool kit (“**impugned goods**”) on the ground that the same are cleared alongwith motor cycle and value thereof is included in assessable value of motor cycle.

The facts of the case in nutshell are that Hero Honda Motors Ltd. (“**Assessee**”) is engaged in the business of manufacture of Motor Cycles. The Assessee availed Cenvat Credit on the impugned goods treating them as Inputs under Rule 2(k) of the Cenvat Credit Rules, 2004 (Cenvat Credit Rules). However, the Department declined Cenvat credit on the impugned goods for the period prior to March 1, 2011. The Department contended that the impugned goods were not eligible to be called inputs prior to amended definition of Inputs under Rule 2(k) of the Cenvat Credit Rules [2]. Hence the Department denied the Cenvat Credit on the impugned goods for the period prior to March 1, 2011.

In the course of proceedings before the Commissioner, the Assessee pleaded that the impugned goods had been used in the manufacture of final product and eligible for availing Cenvat Credit. The Department was of view that the impugned items were not used in or in relation the manufacture of the Motor Cycle and therefore the impugned goods does not fall in the ambit of Inputs as per the definition of Rule 2(k) of the Credit Rules. However, this contention of the Department was not accepted by the Commissioner. The Adjudicating Authority allowed Cenvat Credit in respect of the impugned goods to the Assessee and held that the impugned goods are eligible for Cenvat Credit. Being aggrieved, the Department filed the appeal before the Honorable CESTAT Delhi.

The Honorable Tribunal dismissed the plea of the department relying on the judgment of the Honorable Punjab & Haryana High Court in *CCE Vs. Honda Motorcycle & Scooter India (P.) Ltd.* [2014 (Punj&Har.)] wherein the Honorable High Court held that as per the amended notification light diesel oil, high speed diesel oil and motor spirit are excluded but Cenvat Credit can be allowed in respect of all things which are necessary to make the final product marketable. Therefore, the Honorable Tribunal decided in favour of Assessee and held that the impugned goods fall under Rule 2(k) of the Cenvat Credit Rules and eligible for Cenvat Credit on the impugned goods for the period prior to March 1, 2011 as same are ‘parts’ of the Motor Cycle.

[1] Order No. 54214/2014 in Appeal No. E/55574/2013-EX(DB), CESTAT Delhi

[2] Notification No. 3/2011-CE(NT) dated March 1, 2011