



**TAX
ALERT**

***Washing loss outside
the factory is normal
loss towards
manufacturing-Credit
cannot be denied.***



TAX ALERT

Washing loss outside the factory is normal loss towards manufacturing-Credit cannot be denied.

2016-TIOL-805-CESTAT-DEL

Issue: Whether short receipt of coal in the factory due to its washing be regarded as loss in weight in the course of manufacture of final product or not?

Facts: The Appellant is a manufacturer of sponge iron and used coal as main raw material for manufacture of final product. Sometimes coal procured from mines was not suitable for use in manufacture of final product so the coal procured from mines were send directly for washing. However in the process of washing there were some loss in the quantity of the coal. Department alleged that short receipt of coal in the factory due to washing of coal cannot be said that loss in weight is in the course of manufacture of final product and therefore Cenvat Credit cannot be allowed on the duty paid on such short quantity.

Revenue contention: It contended that the entire quantity of coal has not been received in the factory for use in or in relation to manufacture of final product Further it also contended that there was no short receipt in case of other consignments shortage was only for nine consignments.

Appellant contention: The appellant contended on following grounds:-

- In respect of nine consignments the coal procured were of low quality and not suitable for direct use in the manufacture of final product.
- It argued that sponge iron manufacturing process require specific quality of non-coking coal having fixed carbon content (approximately 30%-40%) and low ash content (below 40%) whereas such quantity which was sent for washing contains 46% of Ash and fixed carbon content to the tune of 27% .To substantiate its argument It submitted a certificate issued by 'Central Institute of Mining & Fuel Research, Bilaspur Unit which clarifies. yield of washed coal and that on 1% of Ash reduction in coal there is volume loss of approx 2.5%.
- It also contended that the loss in weight occurred during the washing should be considered loss in the manufacture.

Tribunal's Observation: Hon'ble Delhi Tribunal held that coal was sent for washing and the loss in weight occurred due to its processing as shown from the records is an undisputed fact. also said that other consignment of coal were not sent for washing ,there was no weight loss on such consignment. Only disputed nine consignment were sent for washing and the loss in weight has occurred.

Held: The tribunal held that loss has to be considered as loss in the manufacturing process and demand is not sustainable hence appeal is allowed in favour of appellant.