CUSTOMS,EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST ZONAL BENCH : AHMEDABAD

REGIONAL BENCH : COURT NO - 1

Excise Appeal No. 11740 of 2018-SM

(Arising out of OIA no. CCESA-SRT-APPEALS-PS-833-2017-18 dated 20/03/2018 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

Gujarat Copper Alloys Ltd. Appellant

Survey No. 287/3, Village-Kherdi, Khanvel,
Silvassa
Dadra & Nagar Haveli (Ut)
396230.

-VERSUS-

C.C. E. & S.T. Daman Respondent

3rd Floor...Adarsh Dham Building, Vapi-Daman Road, Vapi
Opp.Vapi Town Police Station,
Vapi
Gujarat
396191

Present For the Appellant : Shri S.J. Patra, Advocate

Present For the Respondent : Shri L. Patra, Supdt. (AR)

CORAM:
HON'BLE MEMBER (TECHNICAL), MR. RAJU

FINAL ORDER NO. A/11819/ 2019

Date of Hearing: 13/09/2019
Date of Decision: 13/09/2019

RAJU

This appeal has been filed by M/s Gujarat Copper Alloys Ltd. against demand of credit availed on items cleared by them from their job worker's premises.

2. Ld. Counsel pointed out that they have received an order which required them to process the goods cleared by them further before final delivery to the buyers. They applied to the Jurisdictional authority for permission under Rule 4(6) of the Cenvat credit rules, to permit them to clear the goods directly from the job worker's premises. Thereafter they followed the deemed procedure. However, Revenue did not respond to their application and no response was received by them. Later on Revenue issued notice to them seeking to deny them the Cenvat Credit availed on the inputs on the ground that the finished goods cleared by them to the job worker and further on payment of duty to the buyers was not returned to

the factory premises. Ld. Counsel pointed out that for the subsequent period, the similar notice has been dropped by the Commissioner (Appeal) vide order dated 28/03/2018.

3. Ld. AR pointed out that Commissioner (Appeal) has observed that there was no acknowledgment of the receipt of the application claimed to have been made by the appellant for seeking permission to clear the goods directly from job worker's premises. He relies on the impugned order.

4. I have gone through rival submissions. I find that the appellant had bonafidely applied for the permission and if the permission was granted in time the entire procedure was within law. The Revenue failed to respond to the permission and for that reason, the manufacturer cannot be denied Cenvat Credit. In similar circumstances, Commissioner (Appeal) has also allowed the benefit for subsequent period vide order dated 28.03.2018.

4.1 As regard the objection raised by the Ld. AR regarding the doubt regarding submission of the letter, I find that while Commissioner (Appeal) raised the doubt but the Original Adjudicating Authority, to whom the application was addressed, has not disputed the same as seen from the para 13 of the Order-in-Original where he has discussed the issue regarding the letter. It is also seen that Order-in-Original does not dispute receipt of the letter. In these circumstances, I find merit in the appeal. Accordingly, impugned order is set aside and the appeal is allowed.

(Dictated and pronounced in the open court)

(Raju)
Member (Technical)

Diksha