CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT No. I

Excise Appeal No.70415 of 2018-[SM]

(Arising out of Order-in-Appeal No.12-CE/APPL-KNP/LKO/2018 dated 10/01/2018 passed by Commissioner (Appeals) Central Excise & Service Tax, Lucknow)

M/s Vaisno Packtech (P) Ltd., **.....Appellant**

(47-Manas Nagar, Maholi Road, Mathura-281001)

VERSUS

Commissioner of Central Excise, Agra **....Respondent**

(Sanjay Place, Agra)

APPEARANCE:

Shri Ramji Khare, Advocate for the Appellant

Shri Rajeev Ranjan, Addition Commissioner, Authorised Representative for the Respondent

CORAM: **HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)**

FINAL ORDER NO- 71781 / 2019

DATE OF HEARING : 25 September, 2019
DATE OF DECISION : 25 September, 2019

PER: ANIL G. SHAKKARWAR

After hearing both the sides duly represented by Shri Ramji Khare, learned Advocate appearing on behalf of appellant and Shri Rajeev Ranjan learned Authorised Representative appearing on behalf of revenue, I note that through the impugned order demand of recovery of Cenvat credit of Rs.4,43,134/- involved in semi-finished goods destroyed during the fire, have been confirmed.

2. Learned Counsel for the appellant has submitted that the recovery of Cenvat credit availed on inputs issued for manufacture cannot be ordered, since there is no such provision. He has further relied on the decision of this Tribunal in the case of M/s Rako Mercantile Traders Vs Commissioner of Central Excise, Lucknow reported at 2014 (307) ELT 602 (Tri.-Del.) and submitted that the Tribunal has already decided the said issue and the issue is no more res-integra.

3. I note that there is no dispute that the said Cenvat credit was involved in the inputs which were already issued for manufacture. I also note that the issue is no more res-integra and stands settled by this Tribunal's decision in the case of Rako Mercantile Traders (supra). The Tribunal has observed in the said case as follows:-

> *"As per settled law, the inputs which have already been issued from the inputs store section, to be used in the manufacture of final product, have to be treated as the inputs used in the manufacture and no Cenvat credit reversal is required to be asked for."*

4. In view of the said observations and settled position of law, I set aside the impugned order, in so far as the same is concerned with recovery of Cenvat credit of Rs.4,43,134/-.

5. In above manner appeal is allowed.

(Dictated and pronounced in open court)

(Anil G. Shakkarwar)
Member (Technical)

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