IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No.E/70276/2017-EX[SM]

(Arising out of Order-in-Appeal No.GZB-EXCUS-000-APP-0977-16-17 dated 09/01/2017 passed by Commissioner (Appeals), Customs & Central Excise, Noida)

Utech Rolls Equipments (P) Ltd. **Appellant**

Vs.

Commissioner, Central Excise & Customs, Ghaziabad **Respondent**

Appearance:

Shri Raj Kumar (C.A.) for Appellant
Shri Mohd. Altaf, Assistant Commissioner (AR), for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Date of Hearing/ Decision : 14/03/2019

FINAL ORDER NO.**70613 / 2019**

Per: Archana Wadhwa

After hearing both the sides, I find that the appellant during the period 2012-13 was working under the Small Scale Exemption Notification and was not availing the benefit of Cenvat Credit of duty paid on the inputs. However, w.e.f. 01.04.2013 onwards they did not opt for SSI Exemption and opted for payment of duty on final products. As a result they became entitled to avail Cenvat Credit of duty paid on various inputs.

2. Accordingly, in terms of Rule 3(2) of Cenvat Credit Rules, 2004, they were entitled to the Cenvat Credit of duty paid on various inputs lying in their stock either as such or in process or as contained in the final product. They accordingly applied, for availment of said credit which stand denied by the Lower Authority on the ground that they have not been able to establish the stock position as on 01.04.2013.

3. The contention of the learned Advocate appearing for the appellant is that inasmuch as they were working under Small Scale Exemption Notification, they were not required to maintain any statutory record like RG-I, RG-23 A Part-I or Part-II. However, he submits that from the parallel documents, he is in a position to establish the stock position. For the above purposes he has referred to the entries made in the balance sheet and various parallel records in the shape of invoices etc. establishing the stock of inputs as on 01.04.2013. He fairly agrees that such documents were not produced before Original Adjudicating Authority.

4. In view of the forgoing, I set aside the impugned order and remand the matter to Original Adjudicating Authority for verification of the said documents to be

produced by the appellant before him and to re-decide the matter accordingly. Needless to say that appellant would be given an opportunity to put forth their case before the Adjudicating Authority. Appeal is thus allowed by way of Remand.

(Pronounced & Dictated in Court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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