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

APPEAL No.E/70882/2016-EX[DB]
(Arising out of Order-in-Original No.07/Commr./HPR/2016-17 dated 21/06/2016 passed by Commissioner, Customs, Central Excise & Service Tax, Meerut)

Merino Industries Ltd. **Appellant**

Vs.

Commissioner, Central Excise, Meerut-II **Respondent**

Appearance:

Shri S. Sunil (Adv.) for Appellant
Shri Sandeep Kumar Singh, Deputy Commissioner (AR), for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing /Decision :07/03/2019

FINAL ORDER NO.**70636 / 2019**

Per: Archana Wadhwa

After hearing both the sides, we find that the appellant who is engaged in the manufacture of laminated sheets, met with a fire accident in their factory on 09.01.2010 and immediately informed their jurisdictional Central Excise Authorities about the damage to their final products and as also to inputs. They sought remission of duty in respect of the final product destroyed in the fire.

2. However, the dispute in the present appeal relates to the Cenvat credit of duty availed in respect of the inputs. Along with the destruction of the final product the inputs lying into assessee's factory were also destroyed. Appellant

fairly agrees that such inputs, which were not issued for production of final product are required to reverse the cenvat credit availed in respect of the same.

3. Further, the appellants in their balance sheet for the year 2009-10, which was relevant for the period of fire accident, made a provision for reversal of Rs.125 lakhs as involved in the credit of inputs destroyed. However, the said balance sheet was provisional and the said provision was made by the appellant only on the rough estimates and assessments. The same was finalized in the next financial year and it was found that the inputs destroyed in the said fire accident involved credit of around Rs.50 lakhs which already stands reversed by the appellant.

4. Revenue entertained a view that since the appellant had initially shown provisional reversal of Rs.125 lakhs, they are bound to reverse the said amount. Accordingly, after adjusting the credit already reversed by them, the demand for the differential credit was initiated against them resulting in passing of the present impugned orders confirming the same along with imposition of penalty.

5. After hearing both the sides, we note that first of all the balance sheet for the relevant year, during which the fire broke in the assessee’s factory was a provisional assessment and was based on provisional assessment of damage of

inputs. The same was finalized subsequently thus leading to the final assessment of destruction of inputs involving around 50 lakhs credit. Revenue instead of relying upon the finalized balance sheet has referred to the provisional balance sheet, without any further evidences of destruction of more inputs, thus involving more credit and has ignored the final balance sheet.

6. Apart from the above, we also note that it is not the Revenue's case that more inputs were destroyed in the fire accident thus requiring the assessee to reverse more credit. Their entire case is based on provincial balance sheet only.

We note that the appellant, by showing less number of destroyed inputs is not benefitted in any manner inasmuch as the not-destroyed inputs are required to be shown by him as having been used in the manufacture of their final product which they are bound to clear on payment of duty. As such we find no reasons for the Revenue to raise the differential demand. Accordingly, the impugned order is set aside and appeal is allowed with consequential relief.

(Pronounced & Dictated in Court)

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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