CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH – COURT NO.I

Excise Appeal No.70782 of 2018

(Arising out of Order-in-Appeal No.Noida-EXCUS-002-APP-1749-50-17-18 dated 23/02/2018 passed by Commissioner (Appeals), Central Tax, Noida)

M/s Vishal Pipes Ltd. **.....Appellant**

VERSUS

Commissioner of Central Excise, Noida-II **.....Respondent**

APPEARANCE:

Absent on Call for Appellant
Shri Shiv Pratap Singh, Authorized Representative for Respondent

CORAM :
Hon'ble Mrs. ARCHANA WADHWA, MEMBER (JUDICIAL)

DATE OF HEARING : 11 March, 2019
DATE OF PRONOUNCEMENT : 24 June, 2019

FINAL ORDER NO.**71185 / 2019**

ARCHANA WADHWA

On matter being called nobody appeared. Accordingly we have heard learned AR and have gone through the impugned order.

2. As per facts on record, the appellant is engaged in the manufacture of 'Steel Tubes and Pipes, Structural Pipes and rigid PVC pipes' falling under Chapter 73 & 39 of the First Schedule to the Central Excise Tariff Act. They were availing the facility of cenvat credit of duty paid on capital goods and input services. The appellant was also doing job work for the other principal manufacturers.

2. Revenue entertained a view, as a result of audit objection that the job work done by the appellant after July 2012 was in nature of services inasmuch as the same was not falling under the negative notification list of services. As

they have availed common cenvat credit, they are required to pay 6% of the value of the final products so cleared by them. Accordingly, proceedings were initiated against them resulting in passing of the present impugned order.

3. The appellant strongly contended before the Lower Authorities that the job work is a manufacture activity and the goods cleared by them to the principal manufacturers had subsequently paid duty in the hands of the principal manufacturer. As such they contended the activity cannot be held to be a service. However, the said plea of the assessee does not stand followed by the Lower Authorities on the ground that the same is covered by the definition of services inasmuch as the same does not fall under the negative list. Accordingly, the Lower Authorities have confirmed demand of duty of Rs.2,18,991/- along with imposition of penalty.

4. Admittedly the job work activity is a manufacturing activity inasmuch as the goods cleared by the appellant are subsequently got duty paid in the hands of the principal Manufacturer. In such a scenario it cannot be held to be a service. Accordingly, I find no reason to uphold the impugned order. The same is set aside and appeal is allowed with consequential relief.

(Order Pronounced in the open Court on 24 June, 2019)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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