CUSTOMS, EXCISE & SERVICE TAX APPELLATETRIBUNAL ALLAHABAD

REGIONAL BENCH -COURT No. I

Excise Appeal No.71214 of 2018-[DB]

(Arising out of Order-in-Appeal No. MRT/EXCUS/000/APPL-MRT/175/2018-19 dated 29/06/2018passed by Commissioner of Central Excise & Customs (Appeals), Ghaziabad)

Commissioner of Central Excise, **.....Appellant**

(Ghaziabad)

VERSUS

M/s Bhushan Steels Ltd., **....Respondent**

(Plot No.23, Site-IV Industrial Arrea, Sahibabad, Ghaziabad)

APPEARANCE:

Shri Pawan Kumar Singh, Supdt Authorised Representative for the Appellant
Shri Rajesh Chhibber, Advocate for the Respondent

CORAM:

HON'BLE SMT. ARCHANA WADHWA, MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER(TECHNICAL)

FINAL ORDER NO. 71242 / 2019

Date of Hearing : 23/05/2019
Date of Decision : 23/05/2019

PER: ARCHANA WADHWA

Being aggrieved with the order passed by Commissioner (Appeals), revenue has filed the present appeal, we have heard Shri Pawan Kumar Singh, learned Authorised Representative appearing for revenue and Shri Rajesh Chhibber learned Advocate appearing for respondent.

2. As per facts on record the respondents are engaged in the manufacture of CR Coils and Sheets classifiable under Chapter 72 of Central Excise Tariff Act, 1985 and were availing the facility of Cenvat credit of duty paid on various inputs, capital goods and input services availed by them.

3. They were issued two show cause notices dated 02.05.2014 and 03.02.2015 proposing to deny the Cenvat credit availed on various services during the period April, 2011 to September, 2014. The notices also proposed to confirm duty of Excise on the interest charged by the respondent from his buyers for sale of the final products against "Hundi". The said two show cause notices were adjudicated by the Original Adjudicating Authority vide his order dated 17.08.2015, confirming the demand as proposed under notices. However, on appeal Commissioner (Appeals) set aside the Order-in-Original and allow the assessee's appeal. The said order of Commissioner (Appeals) is impugned before us.

4. The revenue is disputing the admissibility of Cenvat credit of duty on various input services like Air Ticket Services, Certification Fee by CA/Cost Account, House Keeping, Hotel Bills &Travelling Charges, Office Innovation, Subscription of Periodicals/Periodic ISO Audit, Membership Fee of Export Promotion Council & Chamber of Commerce, Renting of Immovable Property, CHA Services, Port Services, Transportation by Rail Services etc. The Appellate Authority has extended the benefit to the assessee by observing that all such

services are used by the respondent for manufacture of their Final Product and as such have to be held as covered by the definition of input services. For the above proposition he also relied upon various precedent decisions of the higher courts.

We find that revenue in their appeal memo had not advanced any justifiable ground to hold that the said input services are either not covered by the definition of input services or do not stand utilized by the assessee in their business activity of manufacture of their final product. It stands held by various authorities that the use of services which are directly or indirectly used in the manufacture of final products are Cenvatable input services. We find no reasons to interfere in the impugned order of Commissioner (Appeals) on the said count.

5. The further dispute relates to availment of Cenvat credit on various steel items used for repair and maintenance of capital goods. Admittedly, without such repair and maintenance, the appellant cannot run his factory. It has to be held that such use is for smooth running of the factory and the various items stand utilized for the manufacture of the final product and as such has been rightly held to be cenvatable by the Appellate Authority.

6. Further, the issue of payment of Central Excise duty on the interest recovered from the customers in respect of sale of final products against "Hundi" is concerned, we find that the issue stands decided in the same assessee's case reported as M/s Bhushan Steels Ltd. Vs Commissioner of Central Excise,

Ghaziabad Final Order No.72827/2018 dated 07.12.2018. It stands held that interest on the 'Hundi' charges is not includible in the assessable value of the goods. As such, we find that the issue being covered in favour of the respondent, revenue's appeal lacks merit on the said issue.

7. In view of the foregoing, no infirmity is found in the impugned order of Commissioner (Appeals). Accordingly, revenue's appeal is rejected.

(Dictated and pronounced in opencourt)

(ArchanaWadhwa)
Member (Judicial)

(Anil G. Shakkarwar)
Member (Technical)

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