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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 17/04/2017

To

Appellant as per address in table below
Respondent as per address in table below

Final Order No. A/70362-70363/2017-SM[BR] dated 12/04/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the Central Excise and Salt Act, 1944.

Asstt. Registrar

	Application	Appeal	Name and Address of Appellant
1	, E/CROSS/138/2010	E/966/2010	C.C.E, KANPUR 117/7, Sarvodaya Nagar, Kanpur 208005.
2	, E/CROSS/139/2010	E/967/2010	C.C.E, KANPUR 117/7, Sarvodaya Nagar, Kanpur 208005.
			Name and Address of Respondent
3			AGGARWAL STEELS A-145/1, Ist Floor, Wazirpur Indutrial Area, Delhi.,,
4			RIMJHIM ISPAT LTD. B-22, 23, Industrial Area, Bharua Sumerpur, Hamirpur.,,

Other Appellants and Respondents as per Annexure

Copy To

5 Bar Association, CESTAT, Allahabad

6 Director Publications, Customs, Excise. I.P. Estate, Delhi

7 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

8 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

9 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

10 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

11 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

12 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

13 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

14 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

15 C.D.R. 16 Office Copy 17 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

E/CROSS/138 & 139/2010
Appeal Nos. E/966 & 967/2010-EX[SM]

Arising out of Order-in-Appeal No. 29-30-CE/APPL/KNP/2010 dated 18.01.2010 passed by Commissioner (Appeals), Customs & Central Excise, Kanpur.

I. Commissioner of Central Excise, Kanpur (E/966/2010)
II. Commissioner of Central Excise, Kanpur (E/967/2010)

...APPELLANTS

VERSUS

I. Rimjhim Ispat Ltd.
II. M/s. Aggarwal Steels

...RESPONDENTS

APPEARANCE

Shri Ashok B Kulgod (Asstt. Commr.) A.R. for the Department.
~~None present on behalf~~ of assessee-respondents.
for K.K. Anand, Adv

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

DATE OF HEARING : 11. 08. 2016
DATE OF PRONOUNCEMENT : 13.04. 2017
FINAL ORDER NO.-70362-70363/2017

Per Mr. Anil Choudhary :

Revenue is in appeal against common OIA No. 29-30/CE/APPL/KNP/2010 dated 12.01.2010.

2. The brief facts are that Rimjhim Ispaat Ltd. (RJIL for short) having their factory located at Village Bharwa, District Hamirpur, U.P.

Anr

are engaged in manufacturing of SS Steel Ingots/Billets/SS Flats and other products of iron steel falling under Chapter 72 of Central Excise Tariff Act,1985 and are registered with the Department. On the basis of intelligence that RJIL were indulging in large scale evasion of duty by way of clandestine production and removal of the same, searches were conducted at the factory premises of RJIL, residence of Directors, premises of their agents at Delhi and Jodhpur, Cutters, registered offices at Delhi and Kanpur and also residences of some personels on 22.11.2007. Intelligence also indicated that the rolling of their products, manufactured by RJIL was undertaken at their other factory in the name and style of M/s. Juhi Alloys Ltd. (for short JAL). The modus-operandi adopted by them was that ingots/billets manufactured by RJIL was first transferred to the premises of JAL were the same were converted into flats and bars and rods. Thereafter, the unaccounted SS Flats and bars and rods were cleared from factory of JAL under the cover of parallel invoices to their agents at Delhi and Jodhpur. During the course of search at the factory premises of RJIL, in addition to large number of documents, 298.806 MT of Stainless Steel Billets were found unaccounted, and in excess, as per RG-I register and were seized vide panchnama dated 22.11.2007. Search was also conducted at factory premises of one Laxmi Kant Goyal situated at A-103/7, Wazirpur Industrial Area, Delhi. During search in addition to documents, large number of SS Flats and Flat Cuttings of different sections and size were detained as per panchnama. As per details given in panchnama, a total of 74.328 MT of Flat Cuttings of different sizes and sections valued at 33,44,739/- at a average rate of Rs. 45,000/- per MT were detained and a total of 39.817 MT of SS Flats of different sections and sizes valued at Rs. 17,91,777/- at a average cost of Rs. 45,000/- per MT were detained as per Annexure-B. On being asked, Shri Ghanshyam Pandey, the Munim of the firm who was present at the premises or on the spot, informed that all the materials lying in the premises were received by them from RJIL and their associates at Kanpur without any bill or Challan, for cutting and for onward supply to other units. Shri Pandey also informed that Shri Laxmi Kant Goyal is the owner of the factory. Further in statement dated 22.11.2007, Shri Laxmi Kant Goel stated that he was engaged in the cutting of SS Flats supplied by respondent no. 1 RJIL through their dealers Shri Anil Goyal.

3. Search was conducted at the factory premises of another cutter Shri Kapil Garg and SS Flats and end cutting of SS Flats weighing 64 MT were detained vide panchnama dated 22.11.2007 and the statement recorded of Sri Kapil Garg on the same day. He stated that he is engaged in cutting of SS Flats supplied by RJIL, after weighment at the weigh bridge; that after cutting the SS Flats, the same used to be sent to different customers in the Wazirpur Industrial Area as per the direction of Shri Anil Goel. On further query about the duty paying documents of the SS Flats, received by him from RJIL, he stated that the same were being maintained by Shri Anil Goel and Shri Mukul Agarwal. Further, on being specifically asked about the duty paying

documents of the SS Flats and end cuttings found in his factory on 22.11.2007, Shri Kapil Garg stated that he was not having any documents.

4. Statement of Shri Anil Goyal, Director of RJIL was recorded on 22.11.2007. In his statement Shri Anil Goyal stated that his firm M/s. Agarwal Steels was engaged in the trading of Stainless Steel as a commission agent, for the last one year he was the sole consignment agent of RJIL for the goods supplied at Delhi. That the cutting of SS Flats, received by him from RJIL, was being undertaken at business premises of Shri Laxmi Kant Goyal and Shri Kapil Garg. On being confronted with the statements tendered by Shri Laxmi Kant Goyal and Shri Kapil Garg on 22.11.2007, Shri Anil Goyal stated that he was in total agreement with the statements tendered by them. On being further confronted from the records resumed from the house of Shri Laxmi Kant Goyal and from the factory of Shri Kapil Garg, Shri Anil Goyal stated that all the said records contained details of receipt and disposal of the SS Flats, supplied by RJIL through him, after cutting at the factory premises of Shri Laxmi Kant Goyal and Shri Kapil Garg. Shri Anil Goyal further stated that he used to receive SS Flats from RJIL for some time with bill/invoice and some time without any bill or invoice. Shri Anil goyal, Proprietor of M/s. Agarwal Steels vide his letter requested for release of goods detained at the factory premises of Laxmi Kant Goyal and Shri Kapil Garg on the ground that he had already submitted the purchase documents of the detained goods.

Revenue called Shri Anil Goyal for correlation of the detained goods with the purchase documents submitted by him. The correlation was undertaken with his association. The scrutiny of the said documents revealed that the said documents were not co-relatable to the goods detained at the premises of the two cutters, as the detained goods pertained to the goods that had been received in the very recent past, as per the weigh bridge slips, but the documents produced by Shri Anil Goyal were of the month of June, 2007 i.e. almost five months before the detention. In the statement dated 10.03.2008 Shri Anil Goyal stated that he was withdrawing his application for the provisional release of the detained goods because he could not produce any purchase documents relating to the detained goods. Statement of Shri Mukesh Agarwal, Managing Director of RJIL was recorded on 22.11.2007 under Section 14 of the Central Excise Act, 1944, wherein he stated that on being confronted with the statement of Shri Anil Goyal, Laxmi Kant Goyal and Kapil Garg all dated 22.11.2007, stated that he had properly gone through the statements and being in full agreement to the averments made in the said statement, had signed the same. Shri Mukesh Agarwal also admitted that SS Flats manufactured by their companies were also supplied without any bill/invoice to Shri Anil Goyal. Statement of Shri Durga Shankar Mishra, Authorized signatory of RJIL was recorded on 05.05.2008. On being confronted with the seizure of the said quantities of SS Billets, Shri Mishra stated that he was aware of the seizure of the said quantities of Ss Billets being found in excess to the recorded balances and he could not explain the seized 298.806 MT of SS Billets through any of their legitimate records. On further scrutiny it appeared that so far the stock detained from the premises of two cutters is concerned, respondent RJIL had not issued any invoice in favour of these parties. The records of M/s. Agarwal Steels also indicates that they had not received any invoice in respect of the above stated consignments. Furthermore, the fact of seizure of 298.806 MT of SS Billets and shortage of 154.864 MT of rods at the time of visit of DGCEI officers on 22.11.2007, also seem to establish the fact that RJIL had been indulging in unaccounted manufacture and clearances of SS Flats. The abovementioned quantities of detained goods were converted to seizure vide letters of even numbers dated 13.05.2008.

5. From the facts stated herein above, it appeared to Revenue that RJIL had manufactured and cleared 114.145 MTs of SS Flats (including Flats Cuttings) valued at Rs. 51.37 lakhs, involving duty of Rs. 8,46,498/- seized at the premises of Shri Laxmi Kant Goyal and 161.500 MT of SS Flats (including Flats Cuttings) valued at Rs. 72,67,500/- involving duty of Rs. 11,97,684/- seized at the premised of Shri Kapil Garg clandestinely and deliberately with an intention to evade Central Excise Duty on the said SS Flats by not accounting for the same in their production and clearance records. Further, the quantity of 298.806 MTs of SS Billets valued at Rs. 77,68,956/- found unaccounted and in excess to the recorded balance and seized at the factory of RJIL on the day of search, were also meant to be cleared

clandestinely after undertaking rolling of the same. It further appeared that all the goods were liable to confiscation under Rule 25 of the Central Excise Rules, 2002 readwith Section 11AC of the Central Excise Act, 1944. It also appeared that Shri Anil Goyal has also facilitated the clandestine removal of SS Flats consigned by RJIL to him and further unloaded directly at the premises of various cutters, knowing well that the goods loaded from the factory of RJIL were being cleared without any duty paying invoice and by his acts of omission and commission aforementioned has also rendered himself liable to panel action in terms of Rule 26 of the Central Excise Rule, 2002. The show cause notice dated 16.05.2008 was issued against RJIL and M/s. Agarwal Steels. The respondents contested the show cause notice by filing written submissions. Vide Order-in-Original dated 14.07.2009 the Additional Commissioner was pleased to drop the proposed demand on both the respondents (RJIL & M/s. Agarwal Steels), as charges of clandestine removal of goods with intention to evade Central Excise Duty was not proved. Further, observed that all the goods which have been found at the premises of the cutters namely Shri Laxmi Kant Goyal and Shri Kapil Garg are properly accounted for vide proper Excise Invoice, hence duties are paid. Shortage of 4-6% also is not corroborated by the weighing method adopted, as well as Electricity Consumption pattern study, installed capacity study and heat cycle study, resorted to by the Department. So far as the 298.806 MTs of goods found at the premises of RJIL are concerned, same had not reached the stage of being marketable because they could not pass quality control test and were being accumulated over a period of time in a segregated manner and hence permission for re-melting of the same under supervision of the Range Officer, accordingly, penalty proposed was also dropped.

6. Being aggrieved, the Revenue preferred appeals before learned Commissioner (Appeals) who vide his impugned Order held that there is no merit in the Revenue appeals and hence rejected the same upholding the Order-in-Original, observing that the grounds of appeal taken in both the appeals are not substantiated. Further observed that Order-in-Original is a speaking order based upon and after considering duty paying documents, production capacity of respondent RJIL and electricity consumption, and appears to be legal and proper.

7. Being aggrieved, Revenue has filed these appeals and the assessees are in cross objection.

8. Learned A.R. for Revenue have argued that (i) Regarding 298.806 MT SS Billets seized at the factory premises of RJIL. The goods were seized at the time of inspection on 22.11.2007. The assessee claimed that these goods are defective and are not marketable, appears to be after thought. When goods were seized on 22.11.2007, no such averment was made by Shri Durga Shankar Mishra, Authorized signatory in his statement under Section 14, who could not explain the seized goods with any office records. This view is clear as even after more than five months the respondent could not inform the Department that the goods were defective when the goods

were provisionally released. The assessees have taken this stand after provisional release of the goods. The defence of the respondent-assessees is not bona-fide and is concocted after thought. No such records of defective goods was mentioned in the RG-I register regarding 114.145 MTs and 161.500 MT of SS Flats. During inspection certain documents were seized alongwith seized goods. The seized goods were released as well as the documents. The Adjudicating Authority has given conclusion with respect to sale/purchase of the excisable goods, (goods in question). However, there is variation of around 4% (in excess), in the sale/purchase of excisable goods. It is pertinent to mention that respondent-assessee had option to use their previous duty paid invoices to cover up their clandestine removal at the time of adjudication, which it appears the appellant have made the best use of. However, fabrication cannot replace the truth. There is a difference of around 4% between the sale/purchase of the excisiable goods. The two cutters namely, Shri Laxmi Kant Goel & Shri Kapil Garg have accepted during statement under Section 14 of the Act that they used to receive goods from JAL and RJIL alongwith weighbridge slips only and no other documents were supplied alongwith the goods. So far the argument of the respondents that the goods were sent to the cutters for job work only, the assessees have failed to provide any job work invoice, based on which goods were to be received back by the manufacturer. The movement of goods without any excise invoices/job work document, even to the premises of job worker amounts to clandestine removal. Accordingly, prays for allowing the appeal of Revenue.

9. The learned counsel for the respondent-assessee opposes the appeal of Revenue and states among others that the respondent RJIL is engaged in the manufacture of SS Steel Ingots/Billets. The major flaw in the investigation by Revenue is that SS Flats were never manufactured by the respondent RJIL. The SS Flats are manufactured by JAL, which is the sister concern of the respondent RJIL. Respondent RJIL gets Billets converted into SS Flats on job work basis from JAL and supply the same to their buyer. This quantity was very small, as compared to the sale of SS Flats directly by JAL to M/s. Agarwal Steels, Delhi and various other buyers. This fact of manufacturing of SS Flats on job work basis, by respondent RJIL has been accepted in Para-2 of the show cause notice. The Revenue failed to take notice that JAL on its own, was also manufacturing and supplying SS Flats to the said Agarwal Steels under the cover of duty paying documents. if the quantity of SS Flats supplied by JAL directly to Agarwal Steels is also taken into consideration, no case of any clandestine removal, as alleged, is made out against the respondent RJIL. These submissions of RJIL have remained uncontroverted. Further, it is an admitted position that SS Flats on which duty was proposed to be demanded from respondent RJIL were seized from the premises of the two cutters of Agarwal Steels, namely Kapil Garg and Laxmi Kant Goel. It is further submitted that respondent RJIL never sold any goods to these

cutters. The respondent RJIL and their sister concern JAL sold SS Flats on payment of duty to M/s. Agarwal Steels. Thus, no duty is demandable from the respondent RJIL. The learned counsel further relies on the ruling of the Hon'ble Apex Court in the case of Collector of Central Excise vs. Decent Dying Company (1990) 45 E.L.T. 201 SC wherein it has been held in clear terms that the burden of proof, that the goods lying in the market are not duty paid is squarely on the Department, as all the goods lying in the market are deemed to be duty paid. Further, while issuing the second show cause notice the quantum of SS Flats purchased by M/s. Agarwal Steels directly from JAL, were not taken into account. Further, Shri Anil Goel proprietor of Agarwal Steels had handed over purchase file of respondent RJIL for the period 01.07.2007 to 31.03.2008 and also 57 purchase invoices relating to purchase from JAL which have been taken note of the by the Adjudicating Authority. But for the reasons best known to the investigating officers, no cognizance of the duty paid invoices of JAL who are manufacturers of SS Flats and also regular suppliers of SS Flats to Agarwal Steels was taken. During the course of search on 22.11.2007, the following quantity of SS. Flats and billets were seized at various premises detailed below :-

S. No.	Name and address of the premises	Quantity of Goods	Value	Duty
1.	M/s. Kapil Garg B. 33/3, Wazirpur Industrial Area, Delhi-Cutters	161.500 M.T. SS Flats	7267500	1197684
2.	M/s. Laxmi Kant Goyal A-103, Wazirpur Industrial Area, Delhi-Cutters	114.145 M.T. SS Flats	5136516	846498
3.	Factory Premises of	298.806	7768956	1280324

A.W.

	M/s. Rimjhim Ispat Ltd.	M.T. Billets		

To explain the procedure followed, it was stated that one M/s. Agarwal Steels, a Proprietary concern owned by Shri Anil Goel located at Industrial Area, Wazirpur is their Commission Agent for sale of S.S. Flats on Commission basis. Mr. Anil Goel for sake of convenience gets the goods dispatched by M/s. Juhi Alloys Ltd. and M/s. Rimjhim Ispat Ltd. unloaded at the premises of two Cutters viz. M/s. Kapil Garg, Wazirpur Industrial Area, Delhi and M/s. Laxmi Kant Goyal, Wazirpur Industrial Area, Delhi. The reason for unloading the goods at the premises of cutters is that Flats are sold by him in the sizes required by the customers. Whenever a customer places requirement for a particular size Shri Anil Goel, directs the Cutters to cut the flats as per requirement of the buyers and hand over the cut material to the buyers. The buyers pay the cost of the material to the commission agent Shri Anil Goel and the cutting charges are paid by the buyer to the Cutters. Shri Anil Goel, Proprietor of M/s. Agarwal Steels, Wazirpur Industrial Area, New Delhi the Commission Agent after seizure of the goods had made a request for provisional release of the goods detained at the premises of M/s. Laxmi Kant Goyal and Kapil Garg, the two cutters. A copy of the request for provisional release made by Shri Anil Goel was submitted alongwith defence. Shri Anil Goel had submitted statement of accounts of the consignment of M/s. Juhi Alloys Ltd. for the period 01.04.2007 to 22.11.2007 i.e. the date of seizure. Shri Anil Goel had also submitted the statement of accounts of

M/s. Rimjhim Ispal Ltd. for the period 18.04.2007 to 13.11.2007. The details of purchase and sales as per statement of accounts stated above reported as under :-

	Purchase	Sales	Balance
M/s. Juhi Alloys Ltd.	376.710 MT	253.550 MT	123.160 MT
M/s. Rimjhim Ispal Ltd.	78.290 MT	33.800 MT	44.490 MT
			167.650 MT

This quantity was stored at the premises of M/s. Kapil Garg, B-33/3, Wazirpur Industrial Area, Delhi.

Against this a quantity of 161.500 M.T. of S.S. Flats was verified at the premises of M/s. Kapil Garg by the Officers of DGCEI. Thus there was a shortage of 6.150 MT, the difference was due to the facts that the stocks were only eye estimated and not actually weighed. The difference comes to about 4% which is negligible.

	Purchase	Sales	Balance
M/s. Rimjhim Ispal Ltd.	185.350 MT	64.10 MT	121.210 MT

These Flats were stored at the premises of M/s. Laxmi Kant Goyal, A-103/4, Wazirpur Industrial Area, Delhi. Against this the Officers had verified the stock as 114.145 M.T. Thus, there was a shortage of 7.065 MT. The difference of about 4% was because of the fact that the stocks were not actually weighed had been calculated on the basis of average, calling for no adverse inference.

10. It is further urged that on the basis of the above submissions, the Adjudicating Authority had dropped the proceedings in respect of SS Flats which were seized from the premises of two cutters namely Shri Kapil Garg and Shir Laxmi Kant Goel. With regard to the quantity of 298.806 MT of Billets, which were seized from the premises of respondent RJIL, it was contended before the Adjudicating Authority that these goods were rejected goods and hence not entered in the RG-1 register. It is also stated that RJIL had installed a spectrometer in their factory. If the finished goods were not according to parameters and if some defect were noticed in the goods, they were rejected and the same were stored/stacked separately. In the course of search, these rejected goods were found separately stacked. The respondent had also explained regarding consumption of electricity which is important criteria to indicate clandestine production and/or subsequent removal. The Revenue had got study conducted by Professor Batra of IIT, Kanpur according to which for manufacturing 1 MT of Ingots in a induction furnace 1100 units of electricity are consumed. In the facts of the respondent RJIL they have consumed 617 units of electricity per M.T. which is much less than the average 1100 units, as arrived by study group of IIT. Further, it is urged that the Assistant Commissioner of Jhansi conducted heat cycle study in the month of November, 2008 and the average consumption of electricity was arrived at 703 units per MT of SS Billets which is more than the actual annual average consumption. In view of the facts and circumstances the Adjudicating Authority was satisfied that there is no clandestine

manufacture or removal and was accordingly pleased to drop the proposed demand.

11. Having considered the rival contentions and on perusal of records I find that Revenue could not discredited the evidence which was produced before the courts below to the effect that SS Flats seized from the premises of two cutters were duty paid. It is not the case of Revenue contrary to the submission of the respondent that majority of SS Flats found in the premises of the two cutters were purchased by M/s. Agarwal Steels from RJIL and not from JAL. I further find that the Revenue have mainly relied on the uncorroborated oral evidence. It is well settled law that when there is conflict between oral and documentary evidence, it is the documentary evidence which prevails over the oral evidence. I also take judicial notice of the fact that the Revenue have issued several show cause notices on the induction furnace manufacturers of Ingots, Billets etc., raising demand based on the study report of study group of IIT headed by Dr. Batra. Further, in view of the fact that Shri Anil Goel, proprietor of M/s. Agarwal Steels, on 22.11.2007, date of search, submitted 30 purchase invoices of respondent RJIL and 57 invoices of M/s. JAL. In this view, the learned Commissioner (Appeals) have categorically held that the allegations of the Revenue, that respondent could not produce any duty paying document is not sustainable. Once duty paid nature of the goods in question is established, the goods could not have been confiscated. The Revenue have failed to take into account purchase of SS Flats by

respondent Agarwal Steels from JAL during the months of July to November, 2007. Revenue have not given any reason to reject the statement of accounts as produced by respondent M/s. Agarwal Steels, in their grounds of appeal. I further find that appellant Revenue have not produced any positive evidence that the goods lying in the premises of cutters were more than balance stock on the date of search of respondent M/s. Agarwal Steels. So far the doubt raised by the Revenue in the grounds regarding the unaccounted stock of 289.806 MT in the premises of respondent RJIL on the date of search, I find that learned Commissioner (Appeals) have held that there was combined stock to the tune of 3000 MT. In this view of matter also variation of about 10%, which does not call for any adverse inference as there is always possibility of some error in the stock taking. I further find that it was rightly held by the courts below that mere unaccounted goods does not call for confiscation unless there was found any attempt or preparation to remove the same clandestinely. It is further a matter of record that the statement of Shri Mukesh Agarwal recorded on 22.11.2007 on the date of search was retracted the very next day, henceforth not reliable. I further find that in the findings of the court below, the maximum capacity of production per month was 4800 MT, have not been agitated by the Revenue. It is a fact on record that respondent RJIL have disclosed more production than the installed capacity. I further find that the court below have in the case of alleged clandestine manufacture and removal, rightly gone through the issue of installed capacity of furnace and possible manufacturing capacity and for this purpose have also taken into account the electricity consumption which does not lead to any adverse inference. I further find that the grounds taken by the Revenue that the respondent RJIL have not given any evidence in the past five years, there are only two panels, is uncalled for and it is does not arise from the orders of the courts below. Further, Revenue has also not got led evidence that the respondent RJIL have two panels in their factory. I have further find that the doubt expressed by the Revenue that the weight slips on the basis of which the goods were received by the two cutters of M/s. Agarwal Steels, as stated by them, ground of the Revenue that the invoices issued by respondent RJIL and JAL are not co-relatable with the weight slips, I find that this ground is also not tenable as no case of reliable or co-relatable have been made out by the Revenue of the invoices with the weight slips, on subsequent sending of goods on job work to the two cutters by the Agarwal Steels. I further find that allegations made by Revenue are unsubstantiated, no material on records to establish that the goods found in excess in the factory of RJIL at the time of search were not defective. I further find that the charge of clandestine manufacture and removal by the Revenue is mainly based on presumptions and assumptions which did not stand the test, in the adjudication proceedings. I further hold that the courts below have rightly rejected the allegations of the Revenue which was based only of the oral statements initially given and further presumptions, whereas the findings of the courts below are based on facts which was relatable with the documents and records as well as capacity of production. In this view of the matter, there is not merit in the appeals of Revenue and accordingly the same are dismissed.

13. The respondents shall be entitled for consequential benefit, if any, in accordance with law. The cross objectionS also stand disposed of.

Pronounced in Court on 13-04-17.

-Sd/-
(ANIL CHOUDHARY)
Member(JUDICIAL)

Patel/-

प्रमाणित प्रति/Certified True Copy
03/05/2017
सहायक पंजीकार/Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण(C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001