CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Central Excise Appeal No. 21375 of 2015

(Arising out of Order-in-Original No. BLR-EXCUS-003-COM-06-2014-15 dated 31.03.2015 passed by the Commissioner of Central Excise, Bengaluru IV Commissionerate, Bengaluru.)

M/s. S.A. Engineering Works (I) Pvt. Ltd.,
Katha No. 17/15/04, Thippapura,
Aralumallige Hobli,
Doddaballapur Taluk,
Bengaluru Rural – 561 20.

Appellant(s)

VERSUS

Commissioner of Central Excise Bangalore – IV Commissionerate,
P.B.No. 5400, II Floor,
C.R. Buildings,
Queen's Road,
Bangalore – 560 001.

Respondent(s)

APPEARANCE:

None for the Appellant

Mr. Sanjay Venkat, Superintendent (AR) for the Respondent

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MR PULLELA NAGESWARA RAO, MEMBER (TECHNICAL)

Final Order No. 20423/2025

DATE OF HEARING: 18.03.2025
DATE OF DECISION: 18.03.2025

PER : DR. D.M. MISRA

This is an appeal filed against Order-in-Original No. BLR-EXCUS-003-COM-06-2014-15 dated 31.03.2015 passed by the Commissioner of Central Excise, Bengaluru.

2. None present for the appellant. Heard the learned AR for the Revenue.

3. Briefly stated the facts of the case are that, the appellant has defaulted in payment of Central Excise duty during the period July 2011 to 7th March 2013. Consequent to attachment of their capital goods by the Department to recover the arrears of Revenue, the appellant approached the Hon'ble High Court of Karnataka against the Department's action. The Hon'ble High Court vide order dated 22.03.2013 allowed the appellant to pay Rs.25.00 lakhs from April 2013 to November 2013 and pay the balance amount along with interest in the month of December 2013 towards the defaulted amount of duty payable by them. The show-cause notice was issued to them on 03.04.2014 alleging that during the period 8th March 2013 to January 2014, the appellant had paid total duty of Rs.69,92,560/- on the goods cleared out of which an amount of Rs.11,71,932/- paid through PLA and the balance amount of Rs.58,20,628/- was paid through debit in their CENVAT account in violation of provisions of Rule 8 (3A) of the Central Excise Rules, 2002. Consequently, an amount of Rs.58,20,628/- was demanded to be paid in cash which was wrongly paid by debiting their CENVAT credit account for the said period. On adjudication, the demand was confirmed with interest and penalty. Hence, the present appeal.

4. The short question involved in the present appeal is whether utilization of the cenvat credit during the period 8th March 2013 to January 2014 in discharging liability of excise duty is in violation of sub-rule (3A) of Rule 8 of the Central Excise Rules, 2002, can be recovered from the appellant in cash.

5. We find that the appellant had discharged the defaulted amount with interest which has been appropriated in the impugned order. Also, it is not in dispute that Rule 8 (3A) of the Central Excise Rules, 2002 has been struck down being *ultra vires* by the Hon'ble Gujarat High Court in the case of Indsur

Global Ltd. (supra), subsequently followed by various High Courts. In the result, we do not find merit in the impugned order. Consequently, the impugned order is set aside and the appeal is allowed with consequential relief, if any, as per law.

(Operative part of this Order was pronounced in Open Court on conclusion of the hearing.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

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