CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL BANGALORE

REGIONAL BENCH - COURT NO. 2

Central Excise Appeal No. 21383 of 2018

(Arising out of Order-in-Appeal No. 449/2018 dated 09.05.2018 passed by the Commissioner of Central Tax (Appeals - I), Bangalore.)

M/s. Mahindra CIE Automotives Ltd.
9C, Bommasandra Industrial Area,
Bengaluru,
Karnataka – 560 099. **....Appellant(s)**

VERSUS

Commissioner of Central Tax,
Bengaluru South Commissionerate. **....Respondent(s)**

Appearance:
Mr. M. A. Narayana, Advocate for the Appellant
Mr. Vinod Kumar Garhwal, Superintendent (AR) for the Respondent

CORAM:

Hon'ble Mr. P.A. Augustian, Member (Judicial)
Hon'ble Mr. Pullela Nageswara Rao, Member (Technical)

Final Order No. 20046 /2026

Date of Hearing: 15.09.2025
Date of Decision: 15.01.2026

PER : P.A. AUGUSTIAN

This appeal is filed against Order-in-Appeal No. 449/2018 dated 09.05.2018 passed by the Commissioner of Central Tax (Appeals-I), Bangalore.

2. The issue in the present appeal is regarding excise duty on the scrap generated in job workers' premises.

3. The brief facts are the Appellant is manufacturing automobile parts falling under Chapter Heading 76 and 87 of first schedule to Central Excise Tariff Act, 1985. They were also availing the benefit of

CENVAT credit in respect of inputs, capital goods and input services. The raw material namely alloy steel and semi-finished components are removed to job worker for job work like machining, grinding, etc. The wastes generated in the job work premises are not received back at the Appellant's premises and Appellant is not discharging the duty on the waste and scrap generated at the job workers' premises. Alleging non-payment of the excise duty on the scrap generated or cleared from the job work premises, proceedings were initiated and show cause notice was issued. Different show cause notices were issued for the period from January 2006 to November 2016. During the relevant period, M/s. Vishranti Engineering, Bangalore were also merged with the Appellant and considering the pendency of the show cause notices pending against them, it was also taken up for hearing along with the present show cause notice. The Adjudication Authority held that appellant had contravened the provisions of Section 4 of the Central Excise Act, 1944 and Rules 4, 5, 6,8,12 and 16A and 16B of the Central Excise Rules, 2002 and Rule 4 of the Cenvat Credit Rules, 2004 in as much as they have manufactured and cleared alloy steel scrap falling under Central Excise Tariff Heading (CETH) 72041000, without accounting the same in their records, without payment of appropriate Central excise duty, without filing ER-1 returns for the quantity of scrap generated and cleared and without following the provisions of the Cenvat Credit Rules, 2004 and the Central Excise Rules. 2002. Under the provisions of Rule 16A to 16C of the Central Excise Rules, 2002 read with Rule 4 of the Cenvat Credit Rules, 2004 the liability to pay duty on the finished products, intermediate products and scrap arising therefrom is on the person availing the Cenvat Credit and, therefore, no differentiation can be made between the scrap generated at Attibele Plant and at the job workers' end during the course of processing of material sent by the appellant. Accordingly, duty amount of Rs. 1,22,74,812/- was confirmed with interest on the scrap generated at job workers' premises. Penalty was also imposed under Rule 25 and/or Rule 27 of the Central Excise Rules, 2002.

4. Aggrieved by said order, an appeal was filed before the Commissioner (Appeals). Commissioner (Appeals) as per the impugned order dated 09.04.2018 found that the job worker has not paid the central excise duty on the scrap generated at their premises, hence Appellant cannot be made liable for the same, and the duty has to be recovered from the job worker and not from the Appellant. Accordingly, Commissioner (Appeals) set aside the impugned order and remanded the matter for Denovo Adjudication. Aggrieved by said order, present appeal is filed.

5. When the appeal came up for hearing, the Learned Counsel for the Appellant submits that the Appellant is sending raw material as such or after partially processing to various job workers for certain processes and receiving back the same and are using them for further manufacture of excisable goods on which the Appellant is paying duty as per law. The Appellant had filed necessary undertaking as contemplated under the provisions of Notification No. 214/86-CE dated 25.03.1986 as amended from time to time with the jurisdictional central excise authorities under whose jurisdiction the said job workers are situated enabling them to clear the processed goods without payment of excise duty. The Appellant is not receiving the scrap generated during the course of job work, since it is not economically feasible to the vendors of job workers to dispose the scrap generated and Appellant has not given any undertaking on such scrap generated. Thus, Appellant is not liable to pay excise duty as applicable on the scrap so generated.

6. The Learned Counsel further submits that the issue of demanding duty from principal manufacturer on the scarp generated which is retained by job worker on material supplied by principal manufacturer is no more *res integra* and it is in favour of the Appellant as per the following decisions:-

(i) Rocket Engineering Corporation Vs. CCE [2005-TIOL-1313-CESTAT-MUM]. This decision is upheld by

Hon'ble High Court of Judicator at Mumbai as reported in [2006-TIOL-442-HC-MUM-CX].

(ii) Kaytee Switchgear Ltd. Vs. CCE, Belgaum [2007-TIOL-522-CESTAT-BANG]

(iii) Emco Ltd. Vs. CCE, Mumbai III [2008-TIOL-1232-CESTAT-MUM]

(iv) Fag Engineering (P) Ltd. Vs. CCE, Vadodara [2011-TIOL-2033-CESTAT-AHM]

(v) Alucraft Foundries (P) Ltd. Vs. CCE, Bangalore [2008-TIOL-2855-CESTAT-BANG]

7. Learned Authorized Representative (AR) for the respondent reiterated the finding in the impugned order and submits that though the matter was remanded, due to pendency of the appeal before this Tribunal, issue is kept in abeyance. Learned AR further submits that under the provisions of Rule 16A to 16C of the Central Excise Rules 2002 read with Rule 4 of the Cenvat Credit Rules 2004 the liability to pay duty on the finished products, intermediate products and scrap arising therefrom is on the person availing the Cenvat Credit and, therefore, no differentiation can be made between the scrap generated at Attibele Plant and at the job workers' end during the course of processing of material sent by the appellant.

8. Heard both sides and perused the records.

9. We find that the issue is no more *res integra* and the Tribunal in the matter of **M/s Rocket Engineering Corporation Ltd. – 2006 [193] ELT 33 [Tri. – Mumbai],** categorically held that:-

"11. The appellants contend that the Commissioner (Appeals) failed to appreciate the vital fact that nowhere in Rule 57AC(5) (a)/Rule 4(5) (a) of the Cenvat Credit Rules, there is any provision made to compel the principal manufacturer to bring

back the scrap generated at the job workers' end or to pay the Central Excise duty on the said scrap.

12. The Central Excise duty cannot be demanded from the appellants since the job worker is the manufacturer of the said scrap, which is retained by him and sold in the market.

13. The similar issue is answered in the case of M/s. International Tobacco Co. Ltd. v. CCE, Ghaziabad [(Tri. -Del.)]. It is observed that no process of manufacturing taking place in respect of waste and scrap generated during the course of manufacture of cigarettes. Moreover, provision for dutiability of waste and scrap existed only in the erstwhile Central Excise Rules, 1944 (Rule 57F) and no such provision is there in the Cenvat Credit Rules, 2001. Duty is not leviable under Section 3 of the Central Excise Act, 1944.

14. As the issue involved in this case is well-settled in the aforesaid case, these appeals are also disposed off on similar terms".

10. Following the ratio of the above decisions, we find that the Appellant is not liable to pay excise duty on the scrap generated in the job workers premises. Accordingly, impugned order is set aside, and appeal is allowed with consequential relief, if any, in accordance with law.

(Order pronounced in open court on 15.01.2026)

(P.A.Augustian)
Member (Judicial)

(Pullela Nageswara Rao)
Member (Technical)

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