CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
BANGALORE

Appeal(s) Involved:

E/643/2009-DB

[Arising out of Order-in-Appeal No. 40/2009-CE DT dated 30/03/2009 passed by Commissioner of Central Excise (Appeal-I), Bangalore]

MALUR TUBES S(PVT) LTD
#57, KIADB INDUSTRIAL AREA,
MALLU- 568130

Appellant(s)

Versus

Commissioner of Central Excise ,Customs and Service Tax BANGALORE-I
POST BOX NO 5400...CR BUILDINGS,
BANGALORE, - 560001
KARNATAKA

Respondent(s)

Appearance:

None — For the Appellant

Dr. J.Harish, AR — For the Respondent

Date of Hearing: 01/08/2018
Date of Decision: 01/08/2018

CORAM:

HON'BLE MR. S.S GARG, JUDICIAL MEMBER

HON'BLE MR. P. ANJANI KUMAR, TECHNICAL MEMBER

Final Order No. 21078 / 2018

Per : P. ANJANI KUMAR

M/s. Malur Tubes Pvt. Ltd. (the appellants) are engaged in manufacture of ERW Precision Tubes falling under Chapter heading 73069011. The Department alleged that the appellants were engaged in the process like cutting/slitting of steel sheet in coil form to specific sizes; it does not amount to manufacture and therefore, the credit availed by them of Rs.2,63,382/- is illegal. The Department issued a SCN No. 24/07 dated 19.11.2007 to the appellants which was confirmed by the Assistant Commissioner vide Order-in-Original No. 17/2008 dated 25.08.2008. The Commissioner (A) has directed the lower authority to re-work the credit to be recovered to the extent of involvement of credit on the goods whose process did not amount to manufacture. The appellant preferred an appeal on the same.

2. The appellants has submitted on the grounds of appeal that the learned Commissioner (A) did not pass any orders on the denial of cross-examination of the detecting officers and the statement of Sh. Agarwal was recorded. The Order-in-Appeal was in contravention of principles of natural justice. They relied upon the following judgments:

(i) Commissioner of CE, Chennai III Vs. Nagappa Springs Pvt. Ltd., 2009 (238) ELT 489 (Tri. Chennai)

(ii) Maini Precision Products Pvt. Ltd. Vs. CCE, Bangalore-II, 2009 (238) ELT 524 (Tri. Bang)

(iii) M/s. PV Sanghvi Vs. CCE, Mumbai- 2004 (171) ELT 24 (Tri. Mumbai)

(iv) Faridabad Iron & Steel Traders Association Vs. UOI, 2004 9178) ELT 1099 (Del.)

However, none is appeared for the appellants.

3. The learned Department Representative has reiterated the findings of OIA and OIO and has submitted that in view of Hon'ble High Court's decision in the case of ***Faridabad Iron & Steel Traders Association Vs. UOI, 2004 9178) ELT 1099 (Del.)*** held that the process of cutting or slitting of steel sheet in coil form to specific sizes not amounts to 'manufacture', since no new, different and distinct article having distinct name, character and use having emerged from the process.

4. Heard both sides and perused the records of the case.

5. We find that the appellants do not have a strong case; the issue is no longer ras integra; in view of the issue of the Tribunal cited Supra, we find that the Tribunal in the above case has held that reverting to the facts of this case, Steel coil is basically sheet in running length. When it is produced by the manufacturers at their end and when it is folded for the case of transportation, it has been named as coil but when it is unfolded either at the manufacturers' end or at any other end it remains as sheet. The sheets in running length cannot be brought to the destination without folding it and when it is folded by the manufacturer, it is sheet in coil form and unfolded it is sheet as such and accordingly there is no difference in the steel sheets in coil form or cut straight to the specific sizes. The coils in running

length are produced to save transportation cost and toe minimize the wastage as during the cutting of the steel coils.

6. We also find that the Hon'ble Supreme Court has dismissed the SLP filed by the Union of India in above case- 2005 (181) ELT A68 (SC); therefore, we find that the issue has attained finality and therefore it is to be held that the process of cutting or slitting of steel sheet in coil form to specific sizes does not amount to manufacture.

7. In view of the above, the appeal is rejected.

(Operative portion of the Order was pronounced
in Open Court on **01/08/2018**)

P. ANJANI KUMAR
TECHNICAL MEMBER

S.S GARG
JUDICIAL MEMBER

Parveen...