CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 60915 of 2017

[Arising out of Order-in-Appeal/Original No. - dated - passed by the Commissioner (Appeals), -]

M/s Emson Tools Mfg Corpn Limited ......**Appellant**
D-2, Focal Point, Ludhiana,
Punjab 141010

VERSUS

Commissioner of Central Excise and Service Tax, Ludhiana ......**Respondent**
GST Bhawan, F Block, Rishi Nagar,
Ludhiana, Punjab 141001

APPEARANCE:

None for the Appellant
Shri Narinder Singh and Shri Yashpal Singh, Authorized Representatives for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)

FINAL ORDER NO. 60142/2025

DATE OF HEARING: 17.02.2025
DATE OF DECISION: 17.02.2025

The present appeal is directed against the impugned order dated 14.09.2017 passed by the Commissioner (Appeals) Goods and Service Tax, Ludhiana, whereby the appeal of the appellant was rejected.

2. Briefly the facts present case are that the appellant is a manufacturer of auto parts and clearing the same on payment of duty. Some parts after clearance were returned back by the buyers as defective and at the time of receiving the returned back goods,

the appellant took CENVAT Credit on the returned goods in terms of Rule 16(1) of the Central Excise Rules, 2002. Later on, the said goods could not be re-processed and the same were sold as scrap. The Revenue issued a show cause notice in terms of Rule 16(2) of the Central Excise Rules, 2002 as the goods could not be re-processed for removing defects and the assessee is required to reverse the CENVAT Credit taken under Rule 16(1) of the Central Excise Rules, 2002. In these set of facts, the proceedings were initiated against the appellant for the period 2008-09 to 2011-12 by issuance of the show cause notice dated 27.01.2012. The matter was adjudicated and CENVAT Credit availed in terms of Rule 16(1) of the Central Excise Rules, 2002 was denied. Aggrieved by the said order, the appellant filed the present appeal before the Tribunal which was listed before the Single Member Bench. The learned Single Member after noticing the contrary decisions of the Tribunal referred the matter to the Larger Bench. The Single Member Bench of the Tribunal has made the following reference:

> "In terms of Rule 16(2) of the Central Excise Rules, 2002, whether the assessee is required to reverse the CENVAT Credit on the returned goods which are not further processed and cleared as scrap or not?"

3. The reference was heard by the Larger Bench constituted by the Hon'ble President vide reference dated 18.10.2024 to answer, the reference made by the Single Member Bench.

4. After hearing the matter, the Larger Bench answered the reference in favour of the Revenue in the following manners:

> **'As per Rule 16(2) of the Central Excise Rules, 2002, the assessee is required to reverse the CENVAT Credit on the returned goods which are not further processed and cleared as scarp.'**

5. I have heard the Ld. DR, none has appeared on behalf of the appellant.

6. Since the issue has been considered by the Larger Bench and vide its Interim Order No. 01/2025 dated 09.01.2025. The Larger Bench had answered the reference in favour of the Revenue and has held that as per rule 16(2) of Central Excise Rules, 2002 the assessee is required to reverse the Cenvat credit on return goods which are not further processed and cleared as scrap.

7. By following the ratio of the Larger Bench's decision cited (Supra), I am of the considered view that there is no infirmity in the in the impugned order which needs to be upheld and I do so by dismissing the appeal of the appellant. Hence, the appeal of the appeal is dismissed.

(Operative part of the Order pronounced in the open court)

(S. S. GARG)
MEMBER (JUDICIAL)

Kailash