CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
SCO 147-148, SECTOR 17-C, CHANDIGARH – 160 017

SINGLE MEMBER BENCH
COURT NO. I

APPEAL NO. E/60292/2018-EX[SM]

[Arising out of Order-in-Appeal No. 185/CE/CGST-Appeal/Gurugram/SG/2017 dated 30.11.2017 passed by the Commissioner (Appeals), Gurugram]

Deena Paints Limited	:	**Appellant(s)**
VS		
C.C.E., Gurgaon-I	:	**Respondent(s)**

Appearance:
Present for the Appellant(s): Mr. Pawan Pahwa, Advocate and
Mr. Mukesh Pandey, C.A.
Present for the Respondent(s): Mr. Tarun Kumar, A.R.

CORAM:

Hon'ble Mr. Ashok Jindal, Member (Judicial)

Date of hearing/decision: 10.10.2018

FINAL ORDER NO. 63256/2018

Per Ashok Jindal :

The appellant is in appeal against the impugned order wherein the Ld. Commissioner (Appeals) denied the remission claim of the duty to the appellant on the ground that the appellant did not produce relevant documents.

2. Brief facts of the case are that on 24.09.2011, a fire broke out in the factory premises of the appellant, wherein certain semi finished goods and finished goods were destroyed. The appellant filed rebate claim of the duty on the goods destroyed in fire. The adjudicating authority allowed the claim of remission of duty. A show cause notice

issued to the appellant to recover the Cenvat credit on inputs, semi finished goods and finished goods. The matter was adjudicated and it was held that as appellant has filed the claim of insurance with the insurance company and failed to produce any documents from the insurance company, therefore it is presumed that the appellant has recovered the claim of duty on goods destroyed from the insurance company. Accordingly, the demand of duty was confirmed. Against the said order, the appellant filed the appeal before the Commissioner (Appeals) who uphold the adjudication order. Against the order of Commissioner (Appeals), the appellant is before me.

3. Heard the parties and considered the submissions.

4. During the course of hearing, the Ld. Counsel for the appellant drew my attention to the reply to the quarry raised by the Inspector, Central Excise, Division 7, Gurgaon vide letter dt. 03.05.2016, which has been replied by the appellant on 10.06.2016 along with a certificate issued by surveyor that the appellant has not taken any claim from insurance company on account of the duty involved in the goods destroyed but the Ld. Commissioner (Appeals) failed to consider the same.

4.1 In these circumstances, I find that the Ld. Commissioner (Appeals) while passing the impugned order has not considered the records placed before him. Therefore, the impugned order deserves no merit. Accordingly, the same is set aside.

4.2 I further find that as inputs has gone in the process of manufacturing, therefore Cenvat credit availed on inputs which has been destroyed while progress and in finished goods, the appellant is not required to reverse any Cenvat credit but on inputs which has not been put to use, the appellant is required to reverse the Cenvat credit.

5. In view of the above observations, the appeal is disposed off with the direction to the appellant to reverse the Cenvat credit availed on inputs which are not put in use has been destroyed in the fire immediately.

(Dictated and pronounced in the open court)

(Ashok Jindal)
Member (Judicial)

RAS'