CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
SCO 147-148, SECTOR 17-C, CHANDIGARH-160017

SINGLE MEMBER BENCH
Court-I

Appeal No.E/3153,3201,3203-3213,3252-3260,3307-3308/2009 & E/29 & 98/2010

(Arising out of OIO No.52/CE/CHD-I/2009 dt.14.09.2009 passed by the CCE, Chandigarh)

Date of hearing/Decision:12.10.2018

PRS Rolling Mills Pvt.Ltd. **Appellant**
Guptaji Sons
Bhatia Steel Industries
Diamond Steel Rolling Mills
Quality Steel
Modern Steel & Agro Industries
Bhushan Steel Industries
Thakur Steel & Agro Industries
Adarsh Steel Rolling Mills
Mahabir Steel Rolling Mills
Ganpati Steel Traders
H.S.Steels Pvt.Ltd.
Prem Khalsa Iron & Steel Rolling Mills
Shri Harnail Singh, Accountant
Star Wir India Ltd.
Eagle International Ltd.
S.G.Steel
Mahawar Steel Store
Mahawar Steel Trading Co.
Laljee Steel Rolling Mills
Subhash Trading Co.
Gee Enn Industries Ltd.
Baba Balak Nath Steels Ltd.

Vs.

CCE, Chandigarh-I **Respondent**

Present for the Appellant: S/Shri Vikrant Kackria, Gaurav Aggrawal & Sjurjeet Bhadu, Advocates
Present for the Respondent: Shri Tarun Kumar, AR

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

FINAL ORDER NO.63323-63345/2018

PER: ASHOK JINDAL

The appellants are in appeal against the impugned order wherein demand of duty has been confirmed along with interest against manufacturer-buyer and penalties of equivalent amount were imposed on them. The penalties were also imposed against the dealers under Rule 173Q of Central Excise Rules,2002.

2. The facts of the case are that DGCEI conducted investigation at the end of M/s.Triveni Castings Pvt.Ltd., who are manufacturer of non alloy steel ingots. During the course of investigation, it was revealed that M/s.Triveni Castings Pvt.Ltd. did not receive the scrap to manufacture their final products i.e. steel ingots. When M/s. Triveni Castings Pvt.Ltd. had not manufactured their final products, it was presumed that they have issued only invoices to the dealers and it was merely paper transactions. Therefore, it was alleged that the manufacturer-buyers had availed inadmissible Cenvat credit on the basis of invoices issued by the dealers who got invoices from M/s. Triveni Castings Pvt.Ltd. without physical movement of steel ingots. On basis of these allegations, a case has been booked against the appellants and it was revealed that as M/s. Triveni Castings Pvt.Ltd. has not manufactured steel ingots as they have not received the scrap to manufacture the final products. Therefore, they have issued only invoices to the dealers, who in turn issued invoices to the manufacturer- buyer to avail inadmissible Cenvat credit. Therefore, the credit was denied to the manufacturers-buyers on the ground that the goods which have been manufactured by M/s.Triveni Castings Pvt.Ltd. have not been supplied to the manufacturer-buyers through the dealers and

penalties were also imposed on them. Against the said order, the appellants are before me.

3. Ld. Counsel for the appellants submits that a case was booked against M/s.Triveni Castings Pvt.Ltd. but a demand has been confirmed against them on account of denial of credit on the invoices issued for scrap received by them as it has been alleged that they have not received scrap from the dealers from Mandi Gobindgarh. Against the said order, an appeal has been filed and the same has been dismissed for non compliance with the provisions of Section 35F of Central Excise Act, 1944. He further submits in this case M/s. Triveni Castings Pvt.Ltd. has admitted that they have manufactured steel ingots supplied through dealers to the manufacturer-buyers, who are appellants before this Tribunal as well as dealers and manufacturers. The buyers' statements have been recorded. They have admitted the fact that they have received the steel ingots which have been manufactured by M/s. Triveni Castings Pvt.Ltd. through dealers in the truck owned by M/s.Triveni Castings Pvt.Ltd. There is no rebuttal to this fact by the Revenue. In that circumstance, the credit cannot be denied to the appellants and no penalties can be imposed on the manufacturer-buyers as well as dealers in the absence of contrary evidence.

4. On the other hand, Ld. AR submits that it is a fact on record that as per the investigation conducted at the end of M/s. Triveni Castings Pvt.Ltd. that they have not received scrap to manufacture the final products. Therefore, the credit has rightly been denied to M/s. Triveni Castings Pvt.Ltd. against the invoices. As M/s.

Triveni Castings Pvt.Ltd. has not received the scrap, the question of manufacture of steel ingots does not arise. Therefore, all the statements recorded during the investigation can not be relied upon. As no manufacturing took place at the end of M/s. Triveni Castings Pvt.Ltd., therefore, no goods have been moved from M/s. Triveni Castings Pvt.Ltd. to the manufacturer-buyers. Therefore, the adjudicating authority has rightly denied the credit to the manufacturer- buyers and imposed equivalent penalties on them. The penalties have rightly imposed on the dealers.

5. Heard the parties.

6. On going through the submissions made by both sides, I find that in this case, it has been alleged that that the manufacturer-buyers had availed inadmissible Cenvat credit on the basis of invoices issued by the dealers who got invoices from M/s. Triveni Castings Pvt.Ltd. without physical movement of steel ingots. Further, allegation against the appellants they have received scrap against non cenvatable invoices, the same has been used in the manufacture of steel ingots as M/s. Triveni Castings Pvt.Ltd. has manufactured steel ingots and on its dutiable goods, duty paid thereon and also they have supplied the steel ingots to the manufacturer-buyer through dealers. In that circumstance, without contrary evidence placed before me by the Revenue, credit cannot be denied to the manufacturer-buyers. Moreover, during the course of investigation, no inclupatory statements of the appellants have been recorded by the Revenue. Moreover, M/s. Triveni Castings Pvt.Ltd. has stated that they have manufactured steel

ingots and the supplied the same to the manufacturer-buyers through the dealers. In that circumstance, without proper investigation, it cannot be alleged that the appellants have not received duty paid steel ingots manufactured by M/s. Triveni Castings Pvt.Ltd. Therefore, I hold that the appellants i.e. Manufacturer-buyers have correctly availed Cenvat credit on steel ingots manufactured by M/s. Triveni Castings Pvt.Ltd. As the manufacturer-buyer has received the goods through proper channel, no penalty can be imposed on the dealers as well as manufacturer-buyers.

7. In view of above analysis, the impugned order is not sustainable in the eyes of law, therefore, the same is set aside and the appeals are allowed with consequential relief, if any.

(dictated and pronounced in the court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

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