

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/61364/2018

[Arising out of Order-in-Appeal No. 42/CE/FBD/GST-APPEAL-GURUGRAM/SG/2017 dated 14.05.2018 passed by the Commissioner of Central Excise (Appeals), Haryana]

Date of hearing/decision: 30.11.2018

For approval and signature:

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

**M/s Escorts Limited Construction : Appellant(s)
equipment**

VS

C.C.E. Faridabad I : Respondent(s)

Appearance:

Present for the Appellant(s): Shri R.K Hasija (Advocate)

Present for the Respondent(s): Shri G.M Sharma (AR)

CORAM:

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

FINAL ORDER NO.

63494/2018

Per : Ashok Jindal

The appellant is in appeal against the impugned order wherein penalty under Rule 15 of CCR, 2004 read with rules under Section 11AC of the Central Excise Act, 1944 has been imposed.

2. The facts of the case are that during the period 2013-2014 and 2014-2015, the appellant made a provision for obsolescence of trading goods under Rule 3(5B) of Cenvat credit rules, 2004 but no Cenvat credit thus reversed in their Cenvat credit account, therefore, on pointing out by the audit team, the appellant reversed the Cenvat

credit along with interest in their Cenvat credit account, thereafter, a show cause notice was issued to the appellant for appropriation the amount already paid and to impose penalty under Rule 15 read with Section 11AC of the Act. The matter was adjudicated the amount appropriated and penalty as proposed in the show cause notice was also confirmed, against the said order appellant is before me.

3. Heard the parties.

4. Considering the fact that the inputs are still lying in the premises of the appellant, and on pointing out by the audit, the appellant immediately reversed the Cenvat credit along with interest, in that circumstances, no show cause notice was required to be issued to the appellant, therefore, I hold that no penalty can be imposed on the appellant, accordingly, the penalty imposed on the appellant is set aside.

5. With these terms appeals is allowed.

(Order dictated and pronounced in the court)

Ashok Jindal
Member (Judicial)

Kailash