

**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/61387/2018**

[Arising out of Order-in-Appeal No.LUD-EXCUS-001-APP-1203-2018 dated 28.05.2018 passed by the Commissioner of Central Excise (Appeals), Ludhiana]

**Date of hearing/decision:** 30.11.2018

For approval and signature:

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

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**M/s Allied Recycling Ltd** : **Appellant(s)**

**VS**

**C.C.E. & S.T.-Ludhiana** : **Respondent(s)**

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Appearance:

Present for the Appellant(s): Shri Poojan Malhotra (Advocate)

Present for the Respondent(s): Shri Bhasha Ram (AR)

**CORAM:**

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

**FINAL ORDER NO.** **63495** /2018

**Per : Ashok Jindal**

The appellant has filed these appeals against the impugned orders wherein the Cenvat credit on C.R. Sheets, Rounds, H.R. Coils was denied on the premise that the said inputs itself are finished goods for some other industry, therefore, the same cannot be input for the appellant.

2. The facts of the case are that the appellant is manufacture of Iron, Steel Ingots and Billets and availing the facility of Cenvat credit on inputs, namely, Iron & Steel scrap. During the course of

audit, it was found that the appellant has availed Cenvat credit on the inputs, namely, C.R. Sheets, Rounds, H.R. Coils etc. i.e. Flat Rolled Products, it was presumed by the Revenue that these goods cannot be inputs for the appellant to manufacture of Iron & Steel Ingots and Billets. These inputs are itself finished goods for some other industry, therefore, it was alleged that the appellant has entered into the paper transaction only and no goods have been received by the appellant. In these set of facts, various show cause notices were issued to the appellant and Cenvat credit on these goods have been denied. Against the said orders, the appellant is before us.

3. Ld. Counsel appearing on behalf of the appellant submits that no evidence has been brought by the Revenue on record and no investigation has been conducted by the Revenue to establish the fact that these inputs have not been received by the appellant. The whole allegation on the basis of assumption and presumption that the inputs received by the appellant are finished goods for some other industry, therefore, the same cannot be inputs for the appellant. It is his submission that as per the CBEC Circular No. 690/6/2003-CX dated 20.01.2003, the appellant is entitled to avail Cenvat credit.

4. On the other hand, the Ld. AR supported the impugned orders.

5. Heard the parties and considered the submissions.

6. On careful consideration and submission of both the sides, I find that Revenue has made allegation only on the basis of the fact that the inputs which have been received by the appellants are

finished goods for some other industry and it can be used as input, therefore, the same cannot be inputs for the appellant but no investigation was conducted whether the appellant has received these inputs in their factory or not. How these inputs have been diverted by the appellants or the supplier. The allegation made against the appellant is merely on the basis of assumption and presumption, therefore, the said allegation is not sustainable. Further, I find that the CBEC Circular No. 690/6/2003-CX dated 20.01.2003 has explained the position which is as follows:-

"3. Since the "Steal former" is actually consumed and is contained in the ingots and billets manufactured in the units, it is in the nature of an "input"."

therefore, I hold that the Cenvat credit cannot be denied to the appellant.

In these terms, the impugned orders are set-aside and the appeals are allowed with consequential relief.

*(Order dictated and pronounced in the court)*

**Ashok Jindal**  
**Member (Judicial)**

*Kailash*