

Customs, Excise & Service Tax Appellate Tribunal
SCO 147-148, SECTOR-17-C, CHANDIGARH-160017

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Appeal No. E/60519/2018

(Arising out of OIA-CHD-EXCUS-001-APP-423-17-18 dated 01.02.2018 passed by the Commissioner (Appeals) of Central Excise-CHANDIGARH-I)

M/s Kulja Industries Ltd. : Appellant (s)

Vs

CCE-Chandigarh-I : Respondent (s)

**Represented by:**

For Appellant (s) : Shri Joy Kumar, Advocate

For Respondent (s): Shri H. Singh, AR

**CORAM :**

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

Date of Hearing/Decision: 13.12.2018

**ORDER No. A/63588 / 2018**

**Per : Mr. Ashok Jindal**

The appellant is in appeal against the impugned order wherein the appellant seeking immunity from imposition of penalty by way of the impugned order.

2. The facts of the case are that on 08.02.2010, the factory premises of the appellant were investigated wherein certain shortages of raw-material and finished goods were detected and explanation was sought. The appellant could not give any explanation for the shortages of raw-material and goods and opted to pay duty/reversal of cenvat credit on inputs. The appellant on 09.02.2010 reversed part of the cenvat credit from their cenvat credit account and part of the cenvat credit paid through PLA. Apart from that, the appellant paid 25% duty as penalty through cenvat credit account which was required to be paid by the appellant through PLA. Later on, a show cause notice was issued to the appellant for demand of

interest and penalty which was required to be paid through PLA. The matter was adjudicated, the penalty was confirmed ignoring the fact that the appellant had paid through cenvat credit account. Against the said order, the appellant is before me.

3. Heard the parties and considered the submissions.

4. On careful consideration and submission of both sides, I find that in this case, the appellant paid penalty through cenvat credit account instead of paying through PLA. It is also fact on record that some part of the cenvat credit was paid by the appellant through PLA. If situation was taken like that cenvat credit would have been reversed from cenvat credit account and penalty could have been paid through PLA. In that circumstances, there is no case of the Revenue. Admittedly, the penalty has been paid by the appellant by reversing their cenvat credit account, therefore, there is a situation of Revenue neutrality and the impugned show cause notice was required to be issued to the appellant. Therefore, the proceedings initiated through impugned show cause notice are set-aside.

5. In result, the appeal is allowed with consequential relief, if any.

*(Dictated & pronounced in the Court)*

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

G.Y.