

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/60375/2018-Ex[SM]

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-128-18 dated 22.01.2018 passed by the Commissioner, CGST (Appeals), Ludhiana]

M/s Gain Castings Pvt Ltd : Appellant(s)

VS

C.C.E. & S.T., Ludhina : Respondent(s)

Appearance:

Present for the Appellant(s): None

Present for the Respondent(s): Mr. Atul Handa, A.R.

CORAM:

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

Date of hearing/decision: 14.12.2018

FINAL ORDER NO. 63598/2018

Per Ashok Jindal :

The appellant is in appeal against the impugned order wherein the cenvat credit on inputs received by them has been denied on the ground that the vehicles used for transportation of the goods are not capable of transportation of the goods.

2. The facts of the case are that the appellant procured inputs from the main manufacturer M/s Tata Iron & Steel Co. Ltd through their registered dealer located in Mandi Gobindgarh for manufacture of their final products. The goods received by them duly entered in their statutory records and were using for manufacturing final product which were cleared on payment of duty. An intelligence was

gathered by the Revenue that the vehicle number used for transportation of the goods are fake; therefore, an investigation was conducted and it was found that number of vehicles mentioned in the invoices issued to the appellant is not capable of transportation of goods as these vehicles registration numbers are of two wheelers/light motor vehicles. Therefore, it was alleged that the appellant has not received the inputs, consequently they are not entitled to credit on the said inputs. The show cause notice was issued which was adjudicated and demand of duty was confirmed alongwith interest and penalties on the appellant were also imposed. Against the said order, the appellant is before me.

3. Heard the Ld. AR for the Revenue.

4. In find that on similar facts the issue has been dealt by this Tribunal in the case of **Naba Steels Pvt Ltd. Vs. CCE & ST-Ludhiana** vide **Final Order No. A/63422-63433/2018 dt. 16.11.2018**, wherein this Tribunal observed as under:-

"5. Considering the fact that in this case, the credit sought to be denied to manufacturer-buyers solely on the ground that the vehicle number mentioned in the invoices are not capable of transportation of the goods. To counter this allegation, the appellants have produced newspaper cuttings and police report to show that during that period, the transporters were using the fake 4 vehicle numbers to avoid toll tax, road tax, and other local tax and that issue was taken with police as well as transport authority. These facts are not in dispute in adjudication order itself by the adjudicating authority as mentioned that there were almost 500 vehicles involved in such type of activity but the adjudicating authority has not examined whether all 500 vehicles involved in such activity, therefore, the

benefit of doubt goes in favour of the appellants who are able to show that these goods have been properly recorded in the stock and after manufacturing the goods, they have cleared the same on payment of duty. When these facts are not disputed, therefore, the credit to the manufacturer-buyer on the goods in question cannot be denied. In that circumstance, the credit is allowed to the appellants, consequently, no penalty is imposable on the appellants."

Therefore, following the precedent decision of this Tribunal on the identical investigation in the case of ***Naba Steels Pvt Ltd. (supra)***, I hold that the cenvat credit cannot be denied on the mere allegation that the vehicles in question are not capable of transportation of goods. Therefore, I set-aside the impugned order and allow the appeal with consequential relief, if any.

(Dictated and pronounced in the open court)

(Ashok Jindal)
Member (Judicial)

RAS'