Customs, Excise & Service Tax Appellate Tribunal
SCO 147-148, SECTOR-17-C, CHANDIGARH-160017
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Appeal No. E/60793/2018

(Arising out of OIA-LUD-EXCUS-001-APP-891-18 DATED 28.03.2018 passed by the Commissioner (Appeals) of Central Excise and Service Tax-LUDHIANA)

M/s Vimal Alloys Pvt Ltd. : Appellant (s)

Vs

CCE-Ludhiana : Respondent (s)

Represented by:
For Appellant (s) : Shri N. Bindal, Advocate
For Respondent (s): Shri Bhasha Ram, AR

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

Date of Hearing/Decision: 10.01.2019

ORDER No. A/60017 / 2019

Per : Mr. Ashok Jindal

The appellant is in appeal against the impugned order denying Cenvat credit on inputs procured by them.

2. The facts of the case are that the appellant purchased Ferro alloy from M/s. Gupta Enterprises, the first stage dealer and availed Cenvat credit on the invoices issued by M/s. Gupta Enterprises. An investigation was conducted at the end of M/s. Gupta Enterprises, wherein it is stated that they have supplied invoices to the appellant without goods. On the basis of the statement of M/s. Gupta Enterprises verification at the end of transporter was also conducted wherein it was found that the vehicle involved are not capable to transport the goods. Therefore, it was alleged against the appellant that they have taken the Cenvat credit on the strength of invoices without receiving the goods. In these circumstances,
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the show cause notice was issued to deny the Cenvat credit to the appellant. Consequently, to demand on duty along with interest and imposition of penalty. Both the lower authorities denied the Cenvat credit and confirmed the demand of duty along with interest and penalty was also imposed.

3. Heard the parties.

4. Considering the fact that in this case the cenvat credit sought to be denied on the basis of the statement of Shri Ajay Gupta, Proprietor of M/s Gupta Enterprises, the goods have been procured by the appellant who stated that he has issued only invoice without accompanying the goods, but, no investigation was conducted with the transporters to ascertain the fact whether the goods have been received by the appellant or not? On the contrary, the appellant has made a specific statement they have received the goods in question, in that circumstances, cenvat credit cannot be denied to the appellant relying on the decision of the Tribunal in the case of ***Jyoti Industries vs. Commissioner of Central Excise & Service Tax-Ludhiana [2016 (343) ELT 690 (Tri.-Del.)]***. Therefore, I set-aside the impugned order and allow the appeal filed the appellant with consequential relief, if any.

(Dictated & pronounced in the Court)

(Ashok Jindal)
Member (Judicial)

G.Y.