CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
SCO 147-148, SECTOR 17-C, CHANDIGARH – 160 017

SINGLE MEMBER BENCH
COURT NO. I

APPEAL NOs. E/61882/2018 & E/61886/2018-EX[SM]

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-1626-18 dated 31.08.2018 and Order-in-Appeal No. LUD-EXCUS-001-APP-1636-18 dated 04.09.2018 both passed by the Commissioner (Appeals), Ludhiana]

Saket Steels Ltd, **: Appellant(s)**
Anil Kumar Aggarwal Director

VS

C.C.E., Ludhiana **: Respondent(s)**

Appearance:
Present for the Appellant(s): Mr. Sudeep Singh, Advocate
Present for the Respondent(s): Mr. Tarun Kumar, A.R.

CORAM:

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

Date of hearing/decision: 20.03.2019

FINAL ORDER NO. 60335-60336/2019

Per Ashok Jindal :

The appellants are in appeal against the impugned orders, wherein the Cenvat credit sought to be denied to the appellants on the ground that it is mere a paper transaction as they have not received the goods, therefore, the Cenvat credit sought to be denied.

2. The facts of the case are that the appellants are the manufacturers of M.S. Ingots. They purchased the some scraps M.S. Billet (defected) from one dealer M/s Priya Steels India Ltd. An investigation was conducted at the end of the supplier/dealer,

wherein during the course of investigation it was found that they were not having storage facility, therefore, further investigation revealed that the appellant have not received M.S. Billet (defected) from M/s Priya Steels India Ltd., therefore, an investigation was also conducted at the end of the appellant and a show cause notice was issued to deny the Cenvat credit on the invoices issued by M/s Priya Steels India Ltd. Consequently to demand the duty along with interest and impose penalty, a show cause notice was issued to the appellants. The matter was adjudicated. the demand of duty was confirmed by disallowing the Cenvat credit along with interest. Penalties were also imposed on both the appellants. Against the said order, the appellants are before me.

3. The Ld. Counsel for the appellants submits that during the period when the appellants received the goods from M/s Priya Steels India Ltd, M/s Priya Steels India Ltd was having a godown and having storage facility for the goods in question. Further, there is no inculpatory statement of the appellants that they have not received the goods. In fact, the statement during the course of investigation itself show that they have received the raw material, which have been used in manufacturing of the final goods ultimately the same have been cleared on payment of duty. Therefore, the Cenvat credit cannot be denied.

4. On the other hand, the Ld. A.R. for the Revenue submits that the description of the goods of manufacturer/supplier and the dealer is not matching and both the supplier and the dealer have made their

statements that they have not supplied any goods along with invoices. Therefore, the Cenvat credit cannot be allowed.

5. Heard the parties and considered the submissions.

6. The sole allegation for denial of the Cenvat credit to the appellants is that they have not received the goods and it was mere paper transaction. On the other hand, no discrepancy was found during the course of investigation, neither the Revenue has proved that if the invoices did not accompany the goods/ raw material then from where the appellants had procured the raw material for manufacturing their final goods which have been cleared on payment of duty. Moreover, no investigation was conducted at the end of the transporters to find out the truth. In that circumstance, merely on the basis of the invoices issued by the supplier, demand cannot be confirmed against the appellants. Therefore, the benefit of doubt goes in the favour of the appellants. Accordingly, I allow the Cenvat credit availed by the appellants and hold that no proceeding is sustainable against the appellants.

7. In the above terms, I set aside the impugned orders and allow the appeals filed by the appellants.

(Dictated and pronounced in the open court)

(Ashok Jindal)
Member (Judicial)

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