CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL CHANDIGARH

REGIONAL BENCH - COURT NO. I

Appeal No. E/61719/2018-[SM]

(Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-1601-18 dated 21.08.2018 passed by the Commissioner (Appeals), Shimla)

M/s Hero Steels Ltd ......**Appellant**
(Hero Hagar, G.T. Road, Ludhiana, Punjab)

VERSUS

Commissioner of C.E., Ludhiana ......**Respondent**
(Office of the Central Excise Commissionerate,
F-Block, Rishi Nagar, Ludhiana, Punjab)

APPEARANCE:

Mr. Sunil Arora, Advocate for the Appellant

Mr. Tarun Kumar, Authorised Representative for the Respondent

CORAM: **HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)**

FINAL ORDER NO. 60600/2019

DATE OF HEARING: 29.05.2019
DATE OF DECISION: 29.05.2019

PER ASHOK JINDAL:

The appellant is in appeal against the impugned order seeking waiver of penalty imposed on them by invoking extended period of limitation.

2. The facts of the case are that the appellant cleared their goods on payment of duty. Later on, the goods were received back as defected and the appellant took the Cenvat credit on duty paid on the said goods under Rule 16 of the Central Excise Rules, 2002. Thereafter, the goods were cleared on payment of lesser duty. During the course of audit, it was pointed out to the appellant that they have to pay the amount of Cenvat credit taken on the said

goods, which have been cleared after re-make. The appellant paid the duty on 24.01.2012 and later on, the interest was also paid for the intervening period on 06.02.2012 and 28.08.2012. Thereafter, a show cause notice dt. 27.07.2015 was issued to the appellant by invoking extended period of limitation for imposition of penalty. Both the authorities below imposed the penalty on the appellant. Against the said order, the appellant is before me.

3. The learned Counsel for the appellant submits that the appellant has paid the duty along with interest in 2012 itself. Later on, after three years, the show cause notice was issued to impose penalty. Therefore, the same is barred by limitation.

4. On the other hand, the learned A.R. supports the impugned order.

5. Heard the parties.

6. In this case, it is a fact that on pointing out by the audit, the appellant has paid duty along with interest and thereafter the Revenue kept sleeping. On one fine morning after three years, they woke up and issued the show cause notice to impose penalty on the appellant by invoking extended period of limitation. If the Revenue was so vigilant to impose penalty on the appellant, the show cause notice was required to be issued within one year from the payment of duty by the appellant, but the Revenue failed to do so. In that circumstance, I hold that the show cause notice issued to the appellant for imposing penalty is barred by limitation. Accordingly, penalty imposed on the appellant is set aside.

7. With these terms, the appeal is allowed.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMEBR (JUDICIAL)

RA_Saifi