CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

REGIONAL BENCH AT CHANDIGARH
E-HEARING
SINGLE MEMBER BENCH

Excise Appeal No. 60101/2021
(Arising out OIA No.Appeal/PKL/Commissioner/56//20-21 dt.26.10.2020 passed by the Commissioner (Appeals),CGST, SCO-407-408, Sector 8, Panchkula-134109)

Bansal Steel Power Limited **Appellant**
(Unit II, AsaudhaSiwan, Bahadurgarh, Jhajhar, Haryana-124507)

Vs.
Commissioner of CE & ST, Rohtak **Respondent**
(Pacific City Centre, 2nd Floor, Near Jat Bhawan, Delhi Road, Rohtak)

Present for the Appellant: Ms.Seema Jain,Advocate
Present for the Respondent:Ms.Shivani, AR

Date of hearing: 28.05.2021
Date of decision:28.05.2021

FINAL ORDER NO.60846/2021

Per:Ashok Jindal

The appellant is in appeal against the impugned order wherein the credit of Rs.6,75,872/- has been denied on returned goods under Rule 16(1) of Central Excise Rules, 2002 alleging that the credit has been taken by the appellant on fake letter issued by the recipient of the goods.

2. The facts of the case are that the appellant sold the goods to one Sikkim Ferro Alloy, who was buyer of the goods, the consignee were M/s. Adarsh Enterprises and M/s Gandhi Springs. As the goods were not up to the mark and the same were returned to the appellant. The appellant availed credit on returned goods which have been refurbished again and sold on payment of duty. These facts are not in dispute. The investigation further revealed that

M/s. Adarsh Enterprises and M/s Gandhi Springs in their statement stated that they have not returned any goods to the appellant to that effect that they have produced ledger account which was taken by the department. After the investigation, it was found that letters on which the appellant taken credit are fake letters. On these allegations, a show cause notice was issued to the appellant to deny credit, the matter was adjudicated and the credit denied to the appellant. Against the said order, the appellant is before me.

3. Ld. Counsel for the appellant submits that the appellant has sold the goods to Sikkim Ferro Alloy, who was buyer of the goods and ultimately sold the goods to M/s. Adarsh Enterprises and M/s Gandhi Springs. There is no investigation conducted at the end of Sikkim Ferro Alloy, therefore, the investigation is not complete. She further alleged that the investigation is also faulty as the ledger account received from M/s. Adarsh Enterprises and M/s Gandhi Springs were not part of the show cause notice to verify the fact whether they actually received the goods or returned the impugned goods or not? In that circumstance, merely on the basis of presumption, the credit cannot be denied.

4. On the other hand, Ld.AR opposed the contention of the Ld. AR and submits that the statements of the consignee is on record who stated that they have not returned the goods in question. Therefore, the appellant is not entitled to take credit.

5. Heard both sides and perused the records.

6. On considering the submissions made by both sides and the records placed before me, I find that in the statement of M/s.

Adarsh Enterprises and M/s Gandhi Springs, it is clearly mentioned that they have not returned the goods but produced the ledger account. The ledger accounts are with the department, the department could have verifiedtheir statement is correct or not? By producing the ledger account. The said documents have been hidden by the department and not brought on record, therefore, the allegation without evidence is not acceptable in the law. Further, the appellant sold the goods to M/s Sikkim Ferro Alloy but neither any investigation nor statement ever recorded during investigation of M/s Sikkim Ferro Alloy. In the circumstance, investigation conducted by the department is faulty, therefore, I hold that on the basis of faulty investigation, credit of Rs.6,75,872/- cannot be denied to the appellant. 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)

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