CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

~~~~~

REGIONAL BENCH – COURT NO. 1

Excise Appeal No. 60463 Of 2018

[Arising out of OIA No. 279/CE/CGST-Appeal/GGN/SG/2017 dated 08.01.32018 passed by the Commissioner (Appeals) of Central Goods and Service Tax, Gurgaon, Haryana-122001]

Century Metal Recycling P. Ltd. : **Appellant (s)**
Khasra No. 25/22, Tatarpur, Bhagola Road, Palwal
PALWAL, HARYANA

Vs

Commissioner of CGST, Faridabad, Haryana : **Respondent (s)**
New CG Complex, NH-IV, NIT Faridabad

APPEARANCE:
Shri Ashok Kumar Sikka, DGM for the Appellant
Shri Rajeev Gupta, Shri H. S. Brar, Authorised Representative for the Respondent

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

ORDER No. A/60955 / 2021

Date of Hearing:24.11.2021

Date of Decision:24.11.2021

Per : Mr. Ashok Jindal

The appellant is in appeal against the impugned order wherein the demand of interest and penalty has been raised against the appellant.

2. The brief facts of the case are that for the financial year 2013-14 and audit took place on 3rd February to 13 February 2015 and thereafter a show cause notice was issued on 11.02.2016 to deny cenvat credit on service tax paid on renting of Motor Vehicle Services, Works Contract Services and non payment of service tax on legal services. The cenvat credit pertaining to other units of the appellant
~~~~~

which has been taken by the appellant were also sought to be denied. The interest for the intervening period was also demanded and the interests on supplementary invoices were also demanded. The appellant paid the entire amount of cenvat credit or service tax payable by them paid before issuance of the show cause notice but did not pay any interest. The adjudication took place, demand of interest was confirmed and penalty was also imposed. Against the said order, the appellant is before me.

3. Shri Ashok Kumar Sikka, DGM appeared on behalf of the appellant and submitted that the show cause notice is barred by limitation as the demand pertains to 2013-14 and the show cause notice has been issued on 11.02.2016. He further submits that the appellant has paid all the demand of service tax and on account of denial of cenvat credit before issuance of the show cause notice, therefore, the demand of interest and penalties are not imposable.

4. On the other hand, the Ld. AR drew my attention to the show cause notice and submitted that audit took placed during 3rd February to 13 February 2015 and the show cause notice dated 11.02.2016 which is well within the time. He further submitted that it is the fact has been admitted by the appellant that they have taken inadmissible cenvat credit and non payment of service tax on legal services and also not paid interest on supplementary invoices, in that circumstances, the appellant is liable to pay interest and as they have not paid the interest till date therefore, the penalties have been rightly imposed.

5. Heard the parties and considered the submissions.

6. It is a fact on record that audit took place during 3rd February to 13 February 2015 for the year 2013-14 if audit could not take place then availment of inadmissible cenvat credit and non payment of service tax on legal services could not be revealed. Further, the show cause notice has been issued within one year from the completion of the audit by the audit party on 11.02.2016. In these circumstances, I hold that the show cause notice has been issued within time. Further, as admitted by Shri Ashok Kumar Sikka appearing on behalf of the appellant that they have not paid the interest for the intervening period which is required to be paid by them, therefore, I confirmed the demand of interest.

7. In terms of Section 11AC of the Act if the demand of duty, interest are not paid within 30 days from the date of adjudication order, in that circumstances, the penalty is payable by the appellant. Therefore, I hold that the appellant is liable to pay penalty also.

8. In view of above discussion, I hold that the appeal deserves no merits. Accordingly, the same is dismissed.

(Dictated & pronounced in the Court)

(Ashok Jindal)
MEMBER (JUDICIAL)

G.Y.