CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

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REGIONAL BENCH – COURT NO. 1

Excise Appeal No. 60387 Of 2021

[Arising out of OIA-APPL-PKL-COMMR-57-2020-21 dated 02.12.2020 passed by the Commissioner (Appeals) of CUSTOMS(EXPORT PROMOTION)-ROHTAK]

Vij Engineers And Consultants Pvt. Ltd. : Appellant (s)
78 K.m. Stone, G.t Road, Samalkha
PANIPAT, HARYANA

Vs

CCE & ST- Rohtak : Respondent (s)
2ND FLOOR, PACIFIC CITY CENTRE,
OPPOSITE SHANGRILA HOTEL,
NEAR JAT BHAWAN, DELHI BYPASS,
ROHTAK, HARYANA, 124001

APPEARANCE:
Ms. Krati Singh, Ms. Priyanka Singla, Advocate for the Appellant
Ms. Shivani, Authorised Representative for the Respondent

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

ORDER No. A/60965 / 2021

Date of Hearing:16.12.2021

Date of Decision:16.12.2021

Per : Mr. Ashok Jindal

The appellant is in appeal against the impugned order wherein cenvat credit on paint has been denied.

2. The facts of the case are that the appellant is supplier of tower to various telecommunication companies and having a work contract for erection, commissioning and installation of towers at site. The erection, commissioning and installation was done by their Delhi office but tower and paints were supplied by the appellant at site. Revenue is of the view that as the painting has been done by their Delhi office,
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therefore, the same cannot be input for the appellant, therefore, on the paint, the appellant is not entitled to take cenvat credit. In this set of facts, a show cause notice was issued to allege that as paint is neither raw-material or nor has been used in manufacturing activity by the appellant, therefore, they are not entitled to take cenvat credit on paint. The matter was adjudicated, demand on account of denial of cenvat credit on paint was confirmed, interest was also demanded and penalty was also imposed. Against the said order, the appellant is before me.

3. The Ld. Counsel for the appellant submits that the paint is an accessory for safeguard of the tower as without painting, the tower got rusted; therefore, paint is essential to long life of the tower. Therefore, it is an accessory and the same qualifies as input in terms of Rule 2(k) of the Cenvat Credit Rules, 2004. It is further submits that the appellant is bought out paint and the same has supplied alongwith tower at site on which they have paid duty in the value of tower itself, therefore, they are entitled to avail cenvat credit as held by this Tribunal in the case of ***Ajri Engineering Industries Pvt. Ltd. vs. Commissioner of Central Excise, Pune-II – 2014 (3) TMI 833-CESTAT MUMBAI.*** The appellant also relied on the decision of ***Commissioner of Central Excise, Nagpur vs. KEC International Ltd. – 2016 (335) ELT 344.***

4. On the other hand, the Ld. AR reiterated the findings of the impugned order and submits that it is a fact on record, this paint have not been the part of their manufacturing activity and not used by the appellant and same has been used by their Delhi office for painting

the towers which is a service provided by Delhi office, therefore, the appellant is not entitled to take cenvat credit on the paints.

5. Heard the parties and considered the submissions.

6. It is a fact on record that the paint which has been procured by the appellant have been supplied alongwith tower and the value of the paint has been included in the value of tower on which duty has been paid. In that circumstances, relying on the decision of ***Ajri Engineering Industries Pvt. Ltd. (supra)*** I hold that the appellant is entitled to take cenvat credit on the paint. Further, I hold that the paint is essential for safeguard of tower; therefore, it is an accessory which do qualify as input in terms of Rule 2(k) of Cenvat Credit Rules, 2004.

7. In view of this, I allow the cenvat credit to the appellant on paints and set-aside the impugned order.

8. In result, the appeal is allowed with consequential relief, if any.

(Dictated & pronounced in the Court)

(Ashok Jindal)
MEMBER (JUDICIAL)

G.Y.