IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
SOUTH ZONAL BENCH AT CHENNAI

E/455/2011

(Arising out of Order-in-Appeal No. 119/2011 (P) dated 26.05.2011 passed by the Commissioner of Central Excise (Appeal), Chennai).

CCE & ST, Pondicherry : Appellant

Vs.

M/s. Sathyam Steel Roof Structures Ltd. : Respondent

Appearance

Shri R. Subramaniyam, AC (AR)
for the appellant

Shri C. Bosco, Advocate,
for the Respondent.

CORAM:

Hon'ble Ms. Sulekha Beevi, Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing/Decision: **11.05.2018**

FINAL ORDER No. **41491/2018**

Per Bench

Brief facts are that the respondents during the period July 2007 to December 2007, February 2008, April 2008 to July 2008 cleared their final products to a developer of SEZ without payment of duty claiming that the goods are exported in terms of the provisions of Rule 19 of Central Excise Rules, 2002. The department was of the view that the provisions of Rule 6 (6) of

Cenvat Credit Rules, 2004 is not applicable to the goods cleared to developer of SEZ and therefore SCNs were issued demanding Rs.9,06,525/- being the amount @ 10% on the value of the goods cleared to developer of SEZ. After due process of law, the original authority confirmed the demand, interest and imposed penalties. In appeal, the Commissioner (Appeals) set aside the same. Aggrieved, the department is now before the Tribunal.

2. The Ld. AR, Shri B. Balamurugan, AC, reiterated the grounds of appeal. He contended that during the relevant period the provisions of Rule 6(6) (i) of CCR, 2004 provided exception from the purview of Rule 6 (3) only to the goods cleared to a unit in SEZ and not to clearances made to developers of SEZ. He prayed to restore the order passed by the adjudicating authority.

3. The Ld. Counsel, Shri Bosco, appearing for the respondents supported the impugned order. He argued that the issue stands covered by various decisions wherein it has been held that Notification No. 50/2008-CE is clarificatory in nature and therefore retrospective application. He relied upon the decision in the case of *Sujana Metal Products Ltd. Vs. CCE, Hyderabad* - 2011 (273) ELT 112 (Tri.-Bang.) and *CCE, Bangalore Vs. Lotus Power Gears Pvt. Ltd.* - 2017 (346) ELT 347 (Kar.).

4. Heard both sides.

5. The issue whether the clearances made to developer of SEZ would be covered by Rule 6 (6) (i) has been settled by the decision

in the case of Sujana Metal Products Ltd. (supra), which has been followed by the Tribunal in a number of decisions. Following the same, we are of the view that the impugned order does not call for any interference. The appeal filed by the department is dismissed.

(Operative part of the Order pronounced in the open Court)

(MADHU MOHAN DAMODHAR) MEMBER (TECHNICAL)	(SULEKHA BEEVI C.S.) MEMBER (JUDICIAL)

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