CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, CHENNAI

COURT HALL - I

Excise Appeal Nos.41403, 41404 & 41739/2015

(Arising out of Order-in-Appeal 90 & 91/2015 (CXA-I) dated 1.4.2015 and Order in Appeal No. 106/2015 (CXA-I) dated 18.5.2015 passed by the Commissioner of Central Excise (Appeals – I), Chennai)

M/s. Greaves Cotton Ltd. **Appellant**
Plot No. 72, SIPCOT Industrial Complex
Ranipet, Vellore – 632 403.

Vs.

Commissioner of GST & Central Excise **Respondent**
Chennai Outer Commissionerate
Newry Towers, 12th Main Road
Anna Nagar, Chennai – 600 040.

APPEARANCE:

Shri M. Karthikeyan, Advocate for the Appellant
Shri M. Ambe, Authorized Representative for the Respondent

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Hon'ble Shri P. Dinesha, Member (Judicial)
Hon'ble Shri M. Ajit Kumar, Member (Technical)

Final Order Nos. 40670 to 40672/2024

Date of Hearing : 30.05.2024
Date of Decision: 30.05.2024

Per P. Dinesha,

These appeals arise out of a common impugned Orders-in-Appeal No. 90 & 91/2015 dated 1.4.2015 and Order in Appeal No. 106/2015 dated 18.5.2015 passed by the Commissioner of Central Excise (Appeals – I), Chennai.

2. The appellant is a manufacturer of diesel engines would would send the Crank Shaft Facings, CMA Shaft

Forgings, Spacer Starting Pulley castings and filter castings for machining and tubing in terms of Rule 4(5)(a) of CENVAT Credit Rules, 2004 to various job workers; scrap/waste generated during the processing would be cleared by the job worker themselves; only the processed goods would be sent to the appellant.

The above prompted the issuance of Show Cause Notices with a common proposal to demand duty under sec. 11A of the Central Excise Act, 1944 along with appropriate interest and penalty for the scrap / waste generated and cleared by the job worker without payment of duty. The said Show Cause Notices covered the period from April 2010 to March 2014. It appears that the appellant filed their reply denying duty liability, but however, not satisfied with the reply, the Adjudicating Authority confirmed the demand made in the Show Cause Notices vide the Orders-in-Original No.27/2013-CE dated 30.7.2013; No.35/2013-CE dated 9.12.2013 and No. 6/2014-CE dated 30.7.2014 against which it appears that the appellant preferred appeals which came to be disposed of vide the impugned common Order-in-Appeal 90 & 91/2015 (CXA-I) dated 1.4.2015 and Order in Appeal No. 106/2015 (CXA-I) dated 18.5.2015. The first appellate authority has in the impugned order upheld the demands confirmed in Orders-in-Original No.27/2013-CE dated 30.7.2013;

No.35/2013-CE dated 9.12.2013 and No. 6/2014-CE dated 30.7.2014 thereby rejecting the appeals. It is against these orders that the present appeals have been preferred by the appellant.

3. Shri M. Karthikeyan, learned counsel appeared for the appellant and Shri M. Ambe, learned Authorized Representative appeared for the Revenue.

4. Heard both sides and perused the records.

5. After hearing both sides, we find that the only issue to be decided in all the above appeals is "whether the Revenue is correct in demanding excise duty on the scrap / waste which is generated during the job work, which was cleared by the job worker without payment of duty"?

6. We find, as submitted by the learned counsel, that the above issue stands settled by the various orders of this very Bench in respect of the very same appellant for various earlier years, namely:-

- M/s. Greaves Cotton Ltd. Vs. CCE, Chennai – I vide Final order No. 41315/2017 dated 27.7.2017
- M/s. Greaves Cotton Ltd. Vs. CCE, Chennai – III vide Final order No. 41710/2017 dated 18.8.2017
- M/s. Greaves Cotton Ltd. Vs. CCE, Chennai vide Final order No. 41505/2018 dated 11.5.2018
- M/s. Greaves Cotton Ltd. Vs. Commissioner of GST & CE vide Final order No. 40621/2019 dated 28.3.2019
- M/s. Greaves Cotton Ltd. Vs. CCE, Commissioner of GST & Central Excise vide Final order No. 40226 to 40228/2023 dated 31.3.2023

7. Vide Final Order No. 40226 to 40228/2023 dated 31.3.2023, this Bench has considered the earlier orders and has held as under:-

> "3. The learned counsel Ms. Pallavi Ganesh appeared and argued for the appellant. She has contended that the appellant is not the manufacturer of the waste and scrap and therefore there is no liability on the appellant to pay the duty on the waste and scrap manufactured at the job worker's end. Further, the provision of Rule 4(5)(a) of the CENVAT Credit Rules, 2004 nowhere states that the waste and scrap generated at the job worker's end makes the principal manufacturer liable to payment of duty on such waste and scrap. The issue is settled in the appellant's own case for the earlier and subsequent periods vide Final Order No.41307/2017 dated 26.7.2017, Final Order No. 41710/2017 dated 18.8.2017 and Final Order No. 40621/2019 dated 28.3.2019.
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> 4. The learned AR Shri S. Balakumar appeared for the Revenue and reiterated the findings given in the impugned order.
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> 5. We find that the issue contained in these appeals have been considered in Final Order No.41307/2017 dated 26.7.2017. Para 2.1 of the said order is reproduced below;
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> *"The lower authorities have confirmed the demand of Rs.38,034/- along with interest and imposition of penalty of Rs.5,000/-, on the ground that it is the principal manufacturer who is required to pay duty on the waste and scrap arising in the job workers factory and not returned by them to the factory of the principal manufacturer. I find that the issue is no more res integra. An identical issue was considered by the Tribunal in the case of Rocket Engineering Corporation Ltd. Vs. CCE, Pune 2006 (193) ELT 33 (Tri.-Mum.), laying down that such requirement to pay duty in the hands of the principal manufacturer exist only in erstwhile Central Excise Rule 57F (3) and there is no such provision in the subsequent CENVAT Credit Rules 2001. The said decision of the Tribunal stands upheld by the Hon'ble High Court of Bombay reported as 2008 (223) ELT 347 (Bom.)."*
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> The said order has been followed by other orders of this Tribunal for subsequent periods.
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> 6. We also notice that the decision in Final Order No.41307/2017 dated 26.7.2017 was based on

> Rule 4(5)(a) of the Cenvat Credit Rules 2001, whereas the impugned orders have invoked Rule 4(5)(a) of Cenvat Credit Rules 2004. We have perused Rule 4(5)(a) of Cenvat Credit Rules 2004 and find that the said Rule has only been made further liberal and nowhere states that the waste and scrap generated at the job workers end makes the principal manufacturer liable to payment of duty on such waste and scrap. This position was also noted with approval in Final Order No. 40621/2019 dated 28.3.2019 in the appellant's own case.
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> 7. In as much the legal issue involved in this appeal has already been settled, we set aside the impugned order and allow the appeals with consequential relief, if any, as per law."

8. In view of the above, we do not find any merit in the impugned orders and resultantly we set aside the same and allow the appeals with consequential benefits, if any, as per law.

(Operative portion of the order was pronounced in open court on completion of hearing on 30.5.2024)

(**M. AJIT KUMAR**)
Member (Technical)

(**P. DINESHA**)
Member (Judicial)

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