CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH-COURT NO. IV

SINGLE MEMBER

Excise Appeal No. 50954 of 2019

(Arising out of Order-in-Appeal No. 24(SM)CE/JPR/2019 dated 30.1.2019 passed by the Commissioner (Appeals), Central Goods & Service Tax, Jaipur)

M/s Hero Moto Corp. Limited **Appellant**
(Vehilce Manufacturing Plant)
Plot No. SP 101 to 103,
108-109, Industrial Area, Phase-II,
NH-8, Delhi-Jaipur Highway,
Neemrana-301705 (Raj.)

Versus

Commissioner, Central Goods & Service Tax, Customs & Central Excise, Alwar (Raj.) **Respondent**
A Block, Surya Nagar,
Alwar, Rajasthan-301001.

Appearance

Shri Ram Chander, Advocate - for the appellant

Shri Y. Singh, DR - for the respondent

CORAM:HON'BLE MS. ARCHANA WADHWA, MEMBER (JUDICIAL)

Date of Hearing/Decision: 31.01.2020

Final Order No. 50200/2020

Archana Wadhwa :

The very short issue is involved in this appeal i.e. as to whether various iron and steel items used by the appellant are Cenvatable or not. Revenue has rejected the Cenvat credit on the ground that the same stands used as structurals for construction of foundation and building etc. On the other hand, the appellant's contention is that the same have been used as parts and accessories of capital goods, in which case they would be covered by the definition of capital goods and they would be entitled to the Cenvat credit.

2. Learned Advocate also submits that during the course of adjudication, they made a request to the lower authorities to examine the actual use of the goods, which has not been accepted by him. He places reliance on various decisions also supporting their plea that the structurals in question are Cenvatable. He also assails that the Revenue has imposed 100% penalty, which is not in accordance with law.

3. In view of the above submissions of the learned Advocate, I deem it fit to set aside the impugned order and remand the matter to the original adjudicating authority with directions to verify the use of the said items and to re-decide the issue in the light of the precedent decisions of the Tribunal, which the appellant would place before him. It is also clarified that the merits of the case have not been adverted to and the appellant is free to raise all the issues before the adjudicating authority. The appeal is allowed by way of remand.

(Dictated & pronounced in open Court)

(Archana Wadhwa)
Member (Judicial)

RM