CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL NEW DELHI

PRINCIPAL BENCH, COURT NO. 1

EXCISE APPEAL NO. 51375 OF 2018

[Arising out of Order-in-Original No. JAI-EXCUS-000-COM-24-17 dated 30.11.2017 passed by the Commissioner of CGST and Central Excise, Jaipur]

M/S DINESH IRRIGATION PVT LTD **Appellant**

86-B, and 86-B-II Industrial Area,
Jhotwara, Jaipur

Vs.

COMMISSIONER OF CENTRAL GOODS AND SERVICE TAX, CENTRAL EXCISE-JAIPUR **Respondent**

NCRB, Statue Circle,
C-Scheme Jaipur

Appearance:
Present for the Appellant : Shri Jatin Mahajan, Advocate
Present for the Respondent: Shri Rakesh Agarwal, Authorised Representative

CORAM:
HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P. V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 50003/2024

Date of Hearing : 19/10/2023
Date of Decision: 03/01/2024

P V SUBBA RAO

M/s. Dinesh Irrigation Pvt. Ltd. Jaipur[1] filed this appeal to assail the Order-in-Original dated 30.11.2017[2] passed by the Commissioner of CGST & Central Excise, Jaipur.

2. A Show Cause Notice[3] dated 30.5.2012 was issued to the appellant, which was initially decided by the Commissioner by

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1 **Appellant**
2 **Impugned order**

Order dated 30.1.2014 and on appeal, this Tribunal by Final Order dated 26.5.2017 remanded the matter to the Commissioner with some directions. Thereupon, the impugned order was passed. Aggrieved, the appellant filed this appeal.

3. We have heard Shri Jatin Mahajan, learned counsel for the appellant and Shri Rakesh Agarwal, learned authorised representative for the Revenue and perused the records.

4. The appellant manufactures PVC pipes, HDPE Coils and Sprinkler irrigation systems and some of its goods were exempted and others were dutiable. Its records for the period April 2007 to March 2009 were audited and based on the audit objection, the SCN was issued which culminated in the impugned order. An amount of Rs. 1,21,20,085 was demanded in the impugned order, being 10% of the value of the exempted goods cleared by the appellant under Rule 6(3) of the Cenvat Credit Rules, 2004[4] on the ground that the appellant had failed to maintain separate records of the inputs and input services used in the manufacture of dutiable and exempted products.

5. According to the appellant, it had, indeed maintained such records. The only point of dispute is CENVAT credit of Rs. 1,74,190/- on the Service Tax paid on the insurance services which it could not vivisect into the dutiable and exempted products as insurance was a common service. Learned counsel for the appellant submits that to be on the safe side, the appellant reversed this entire amount of CENVAT credit of Rs.

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3 **SCN**
4 **CCR**

1,74,190/- which it had taken on the service tax paid on insurance services.

6. Learned authorised representative supports the impugned order.

7. Having considered both sides, we find that once the disputed CENVAT credit on the insurance service which was used both for dutiable and exempted goods has been reversed, nothing survives in the demand which is the assailed in this appeal because the case of the Revenue is that the appellant had taken CENVAT credit on common input services and had not maintained separate accounts and this credit has already been reversed.

8. In view of the above, the appeal is allowed and the impugned order is set aside with consequential relief, if any, to the appellant.

[Order pronounced on **03.01.2024**]

(JUSTICE DILIP GUPTA)
PRESIDENT

(P. V. SUBBA RAO)
MEMBER (TECHNICAL)

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