

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
NEW DELHI, PRINCIPAL BENCH NEW DELHI
COURT-I**

Date of Hearing/ Decision : **28.02.2017**

Appeal No. E/1534/2011, E/52186/2015 - (DB)

[Arising out of the Order in Original Nos. 19/2011 dated 22.02.2011 and OIO-ALW-EXCUS-000-COM-012-14-15 dated 16.03.2015 passed by Commissioner, Central Excise, Jaipur and Alwar]

M/s. Rathi TMT Saria Pvt. Limited

... Appellants

vs.

Commissioner of Central Excise, Jaipur / Alwar

... Respondent

Appearance:

Rep. by Shri Krishna Kant Verma, Advocate for the Appellants

Rep. by Shri R.K. Manjhi, DR for the respondent

Coram: Hon'ble Mr. M.V. Ravindran, Member (Judicial)

Hon'ble Mr. V. Padmanabhan, Member (Technical)

Final Order No. 52005-52006/2017 -EX (DB)

Per Mr. M.V. Ravindran

These two appeals are directed against OIO Nos. 19/2011 dated 22.02.2011 and OIO-ALW-EXCUS-000-COM-012-14-15 dated 16.03.2015.

2. Heard both sides and perused the record.

3. On perusal of the record, we find that the issue is regarding allegation in the show cause notice that the appellant has availed inappropriate and fraudulent Cenvat credit. We do not want to pass any order on merits of the case nor we are going into the actual issue in these two appeals, as the adjudicating authority has

clearly recorded that the appellant has not filed any reply to the show cause notices issued to them.

4. The action of not filing reply to the show cause notice by the appellant is highly despicable, at the same time, in the interest of justice, we are of the view that the appellants should be extended an opportunity for filing reply to the show cause notice and defend the allegation made therein. In our view, the matter needs consideration by the adjudicating authority.

5. We direct the appellant- appellant's Counsel to file reply to the show cause notice within a period of four weeks from today. On receipt of reply to the show cause notice, the adjudicating authority will decide the matter and come to a conclusion, after following the principles of natural justice. We are not recording any observation on the merits of the case and keeping all the issues open.

Appeals are disposed of by way of remand.

[Order dictated and pronounced in the open court]

(V. Padmanabhan)
Member (Technical)

(M.V. Ravindran)
Member (Judicial)

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