IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO II

Appeal No.E/52576/6/2016-EX[SM]

[Arising out of the common Order-in-Appeal No.BHO-EXCUS-002-APP-075-2016-17 dated 15.06.2016)

Nova Iron & Steel Ltd … Appellant

Vs

C.C.E. & S.T. Raipur … Respondent

Appearance:

Sh SN Panda, Ld Advocate for the Appellant
Sh MR Sharma, Ld AR for the respondent

CORAM:

Hon'ble Mr Ashok K. Arya, Member(Technical)

Final Order No.52127/2017 Date of Hearing: 23.02.2017

Per Ashok K. Arya

1. The Appellant, M/s Nova Iron & Steel Ltd is in appeal against Order-in-Appeal No.075/2016 passed by Commissioner (Appeals), Raipur, whereunder Order-in-Original dated 28.07.2015 passed by Assistant Commissioner, *inter alia* confirming the demand of Rs.1,28,992/- along with interest and equivalent penalty has been confirmed.

2. The brief facts are that the appellant has been manufacturing sponge iron. During manufacture they receive iron ore lumps which also include some

quantities of ‘Ore Fines’. During the process of manufacturing iron ore fines received along with the consignment of Ores and also those generated in the course of crushing/grinding are process wastes. Such ‘iron ore fines’ are removed at nil rate of duty, they being processed waste and refuge. The item, iron ore fines are waste and refuge and cannot be termed as ‘manufacture’ by the appellant.

2.1 The Revenue is asking the assessee appellant to maintain separate accounts in case of manufacturing sponge iron and iron ore fines in terms of Rule 6(3) of the Cenvat Credit Rules 2004 or to pay central excise duty on clearance of such iron ore fines as per Rules 6(3)(i) of Cenvat Credit Rules, 2004.

3. The appellant has been represented by ld Advocate Sh SN Panda and the Revenue has been represented by ld AR, Sh RK Mishra. Both sides have been heard.

4. The item ‘iron ore fines’ is an incidental product generated during manufacturing of sponge iron and cannot be called as the product manufactured by the appellant. The subject matter is covered by the CESTAT decisions in cases of *Commissioner of Central Excise, Meerut II Vs Maa Mangla Ispat Pvt Ltd* 2013(293) E.L.T. 380(Tri. Del) and *Commissioner Central Excise, Raipur Vs AARTI Sponge & Power Ltd*, 2016 (333) E.L.T.415(Tri. Del.).

4.1 Considering above discussion and the decisions of CESTAT(SUPRA), in case of the item namely ‘iron ore fines’ which emerges as by product, the provisions of Rule 6(2) & 6(3) of the Cenvat Credit Rules, 2004 will not be applicable. Consequently, the orders passed by the lower revenue authorities are set aside and the appeal is allowed with consequential relief, if any, to the appellant.

Pronounced in open court on_____________.

(Ashok K. Arya)
Member(Technical)

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IN THE CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO II

Appeal No.E/52266/2015-EX[SM]

[Arising out of the common Order-in-Appeal No.01/ST/LTU/DLH/2015 dated 15.02.2015)

BVI HR PRACTICES PVT LTD **…Appellant**

Vs

C.C.E. DELHI-I **… Respondent**

Appearance:
None for the Appellant
Sh S.Nunthuk, Ld AR for the respondent

<u>CORAM:</u>
Hon'ble Mr Ashok K. Arya, Member(Technical)

Date of Hearing: 23.02.2017

<u>Per Ashok K. Arya</u>

1. Shri S.Nunthuk, Ld AR appeared for the respondent-Revenue. Neither anybody appeared on behalf of the appellant-assessee nor any adjournment application is filed. It shows that appellant-assessee is not interested to pursue the appeal.

2. It may be mentioned that as per maxim. VIAILATIBUS ET NON DORMIENTIBUS JURA SUB VENIUNT, law helps those who are vigilant and not those who go to sleep.

3. The appeal is, therefore, dismissed on account of non-prosecution by the appellant.

(Pronounced in open court on___________)

(Ashok Kr Arya)
Member(Technical)