IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

COURT-IV

Appeal Nos. E/1866/2012

[Arising out of the Order in Original No. 25/2012 dated 26.03.2012 passed by Commissioner, Central Excise, Raipur]

Commissioner of Central Excise & S.T., Raipur … Appellant

Vs.

M/s. SKS Ispat & Power Limited … Respondent

Appearance:

Rep. by - Shri R.K. Manjhi DR, for the appellants- Revenue.
Rep. by - Shri Manish Saharan, Advocate for the respondent

Coram: Hon'ble Mr. Ashok Jindal, Member (Judicial)
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Date of Hearing/ Decision : **23.02.2017**

Final Order No. 52007/2017-DB

Per V. Padmanabhan

The present appeal filed by the Revenue is directed against the impugned Order in Original No. 25/2012 dated 26.03.2012 passed by Commissioner, Central Excise, Raipur.

2. The respondent is engaged in the manufacture of Sponge Iron and other products falling under Chapter 72 of the Central Excise Tariff. The departmental officers visited the respondent's factory on 06.05.2008. During the course of visit, the officers undertook stock taking of finished goods and came to the

conclusion that there was shortage of 150MT of various products. The finished goods found short involving the Central Excise duty of Rs. 1,04,20,177/-. The officers also seized cash of Rs. 59,58,800/- which was not accounted in the books of accounts. In the subsequent proceedings, a show cause notice was issued and the adjudicating authority vide the impugned order demanded the Central Excise duty of Rs. 1,04,20,177/- along with imposition of penalty of equal amount. The seized cash was ordered for confiscation. Penalties were also imposed on the various functionaries of the respondent company.

Appeals were filed by the respondents as well as various functionaries of the respondent which came to be decided by the Tribunal in separate proceedings, culminating in Final Order No. 50496-50500/2017 dated 25.01.2017. Vide the above final order, the demand of Central Excise duty as well as confiscation of cash was set-aside by the Tribunal.

3. The present appeal has been filed by the Revenue against the same impugned order. The ground raised by the Revenue is that the adjudicating authority has erred in confiscating the seized cash and appropriation of the same against the duty liability confirmed on the respondent. The submission of the Revenue is that the cash seized should have been confiscated absolutely as the same has been attributable to the goods cleared clandestinely by the respondent.

4. We have heard Shri R.K. Manjhi, ld.d DR as well as Shri Manish Saharan, ld. Advocate for the respondent.

5. We note that the various appeals filed by the respondent as well as other connected persons already stand decided by the Tribunal vide Final Order No. 50496-50500/2017 dated 25.01.2017. In the said final order, the demand of Central Excise duty as well as penalties imposed on respondent and others have been set-aside. The confiscation of cash seized has also been set-aside. In this background, we find no merits in the appeal filed by Revenue and hence, the same is dismissed.

[Order dictated & pronounced in open court]

(**Ashok Jindal**)
Member (Judicial)

(**V. Padmanabhan**)
Member (Technical)

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