CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Excise Appeal Nos. 3224-3225 of 2012

(Arising out of Order-in-Original No. 43 & 44/2012-CE dated 19.07.2012 passed by the Commissioner of Central Excise, Jaipur-I)

DATE OF HEARING : 27.03.2017
DATE OF DECISION : 27.03.2017

M/s Indo Alusys Industries Ltd. …. **Appellants**
(Rep by Ms. Rinky Arora, Adv.)

VERSUS

CCE, Jaipur …. **Resondent**
(Rep. by Sh. H.C. Saini, DR)

CORAM : **HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT**
HON'BLE MR. ASHOK K. ARYA, MEMBER (TECHNICAL)

FINAL ORDER NO. 52603-52604/2017

PER JUSTICE (Dr.) SATISH CHANDRA :

Both the present appeals are filed against the Order-in-Original No. 43 & 44/2012-CE dated 19.07.2012 passed by the Commissioner of Central Excise, Jaipur. The period in dispute is November 2006 to June 2009 and August 2009 to June 2010.

2. The brief facts of the case are that, the assessee-Appellants, during the period under consideration, were engaged in

the manufacture of aluminium extruded products at their Bhiwadi Unit. The assessee-Appellants were also having one APP Division with centralized registration in the category of CICS at Delhi. This division is an Input Service Distributor (ISD). The head office at Delhi received various input services and most of the services are common to both the manufacturing unit at Bhiwadi and the service providing unit at Delhi. The activity of head office at Delhi is nothing more than fixing of doors and windows which were manufactured by the Bhiwadi Unit. The head office at Delhi after due procedure transferred the input service credit to manufacturing unit at Bhiwadi. The lower authorities have denied the Cenvat Credit availed by the assessee-Appellants' head office registered as an ISD and distributed to the assessee-Appellants' unit on the ground that input services were used at the head office and cannot be distributed to the Bhiwadi Unit. Further, this input service credit cannot be used for discharge of Central Excise Duty. Being aggrieved, the assessee-Appellants have filed the present appeals.

3. With this background, we have heard Ms. Rinky Arora, learned counsel for the assessee-Appellants and Shri G.R. Singh, learned DR for the Department.

4. After hearing both sides and on perusal of the record, it appears that the adjudicating authority in his order has observed that "*noticee have not even adduced any evidence to prove the Cenvat Credit was availed on the input services utilized in manufacture of final product or providing output service. There could have been input services used in providing output services*

which are not at all taxable, therefore, credit pertaining to such input services is not at all admissible, let alone distributable."

5. During the course of arguments, the learned counsel submits that the necessary documents can be produced before the lower authorities to avail the benefit of the Cenvat Credit. She also assured full cooperation with the adjudicating authority.

6. In view of the above, we set aside the impugned order and remand the matter to the adjudicating authority for *de novo* adjudication in the light of the above observations but by providing a reasonable opportunity to the assessee-Appellants to present their case with liberty to file additional documents, if any, as per law

7. In the result, the appeals filed by the assessee-Appellants are allowed by way of remand.

(Dictated & pronounced in the open court)

(ASHOK K. ARYA)
MEMBER (TECHNICAL)

(JUSTICE Dr. SATISH CHANDRA)
PRESIDENT

Golay