CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. 1

Date of hearing/decision: 13.04.2017

Excise Appeal No. 2192 of 2010
(Arising out of order in appeal No. 153/RPR-I/2010 dated 15.04.2010 passed by the Commissioner (Appeals), Central Excise & Customs, Raipur)

M/s Bharat Aluminium Co. Ltd. Appellant

Vs.

CCE, Raipur Respondent

Appearance:

Sh. Hemant Bajaj, Advocate for the Appellant
Sh. H. C. Saini, AR for the Respondent

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Final order No. 52918/ 2017

Per: **Justice (Dr.) Satish Chandra**:

The present appeal is filed by the appellant against the order–in-appeal No. 153/RPR-I/2010 dated 15.04.2010 passed by the Commissioner (Appeals), Central Excise & Customs, Raipur.

2. Brief facts of the case are that during the period under consideration (March 2007 to October 2007), the appellant was engaged in the manufacture of aluminium and articles of aluminium falling under Chapter 76 of the First Schedule to the Central Excise Tariff Act, 1985. The appellant operates under the Cenvat scheme and avail credit of duty paid inputs and capital goods and utilise the same for payment of duty in accordance with Cenvat Credit Rules, 2004. During the period under consideration, the appellant cleared aluminium

sheets/ plates to Vikram Sarabhai Space Centre without payment of duty by availing exemption under Notification No.64/95-CE dated 16.03.1995 amended by Notification No. 15/2007-CE dated 01.03.2007 for being used in satellite launch vehicle. But the department has demanded the duty. Being aggrieved, the present appeal is filed by the appellant.

3. With this background, we heard Sh. Hemant Bajaj, ld. Advocate for the appellant and Shri H. C. Saini, ld. AR for the respondent.

4. From the record, it appears that the adjudicating authority has decided the issue as per clause 7 of the Notification No. 64/95-CE dated 16.03.1995 of General Exemption No. 24. But fact remains that the said notification was superseded by another Notification No. 15/2007-CE dated 01.03.2007 where the clause 7 was amended. The new provision is applicable in the instant case, but the same was not considered by the lower authority. When it is so, then we set-aside the impugned order and remand the matter to the adjudicating authority to decide the issue as per the new Notification No. 15/2007-CE 01.03.2007 where the disputed period is covered. The adjudicating authority is directed to decide the issue denovo in the light of above discussion, but by providing an opportunity of hearing to the assessee. Additional evidence, if necessary, may be admitted as per law.

7. In the result, the appeal filed by the appellant is allowed by way of remand.

(Dictated and pronounced in the open Court).

(V. Padmanabhan)	(Justice (Dr.) Satish Chandra)
Member (Technical)	President

Pant