IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Order: 27.4.2017

Appeal No. E/52947/2016-SM

(Arising out of Order-in-Appeal No. BHO-EXCUS-001-APP-236-16-17 dated 9.8.2016 passed by the Commissioner (Appeals), Central Excise, Customs & Service Tax, Bhopal)

M/s Diamond Cements-II Appellant

Vs.

CCE, Bhopal Respondent

Appearance

Shri Shaswat, Advocate - for the appellant
Ms. Sukriti Das, Advocate

Ms. Kanu Verma Kumar, D.R. - for the respondent

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

Final Order No. 53134/2017

Per Ashok K. Arya :

M/s Diamond Cement, Unit-II is in appeal against Order-in-Appeal No. 236/16-17 dated 9.8.2016 whereunder Cenvat credit of Rs.4,07,346/- disallowed by the Order-in-Original dated 26.5.2014 passed by Joint Commissioner has been sustained.

2. The brief facts are that:

(i) The appellant is engaged in the manufacture of cement falling under Chapter 25 of the First Schedule to the Central Excise Tariff Act, 1985.

(ii) During the audit for the period October, 2008 to December, 2009, the department objected to Cenvat credit taken for certain input services on the strength of documents which did not appear to be eligible for availment of credit.

(iii) The Order-in-Original disallowed the credit of Rs.4,07,346/- which was sustained by the Order-in-Appeal. The appellant is now before the Tribunal against the said order of Commissioner (Appeal).

2. Both sides represented by ld. Counsels, Shri Shaswat & Ms. Sukriti Das for the appellant and Ms. Kanu Verma Kumar, for the Revenue have been heard.

3. After perusal of the facts of the case and submissions of both the sides, it appears that the department has not fully examined the documents submitted by the appellant for claiming subject Cenvat credit, though Order-in-Appeal mentions that the appellant did not produce documentary evidence. The ld. Counsel for the appellant submits that the relevant documents have all along been on record were not carefully examined by the Revenue authorities. When it is so, the impugned order is set aside and the matter is remanded to the original adjudicating authority with a direction that relevant

documents be freshly examined carefully. If all the particulars required for availment of credit are mentioned in those documents then the decision on admissibility of the Cenvat credit as per law may be taken. The order in appeal makes a mention that documentary evidence on Cenvat credit was not produced by the appellant. Therefore, if such evidence is not on record the appellant is directed to produce the said evidence/documents again for scrutiny of the Revenue authorities.

4. In the result, the impugned order is set aside and appeal allowed by way of remand in above terms.

(Dictated & pronounced in open Court)

(Ashok K. Arya)
Member (Technical)

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