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

Date of Hearing/Decision:08.05.2017

Excise Appeals Nos.50325 and 50326/2017-EX (SM)

[Arising out of Order-in-Appeal No.BHO-EXCUS-001-APP-456 and 457-16-17 dated 18th November, 2016 passed by the Commissioner (Appeals-I), Customs, Central Excise and Service Tax, Bhopal (M.P.)]

Force Motors Ltd. Appellant

Vs.

CC, CCE & ST, Indore Respondent

Appearance

Rep. by Shri S. A. Gundecha, Advocate for the appellant.
Rep. by Shri K. Poddar, DR for the respondent.

Coram: Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No.53283-53284/2017

Per B. Ravichandran:

These two appeals are against order dated 18.11.2016 of Commissioner (Appeals-I), Bhopal. The appellants are engaged in the manufacture of motor vehicle and parts thereof, liable to central excise duty. They were availing credit of duty paid on various inputs in terms of Cenvat Credit Rules, 2004/Central Excise Rules, 1944. The dispute in the present appeal is with reference to liability of the appellant to reverse the credit on inputs, which the Revenue claimed has been cleared by the appellant without use in the manufacturing process and shown in their accounts as "written off". Based on the examination of the trial balance for the year 2000-2001 to 2003-04, it appeared that the appellants have written off various amounts of value of inputs, by debiting material loss, bought out rejections, scraped in their books of accounts. The Revenue initiated proceedings against the appellants for recovery of the credit availed on these inputs, the value of which was shown as “written off” in their books of accounts. Various show cause notices were issued covering the period April, 2000 to Jan. 2015. These cases were adjudicated by the Original Authorities, who confirmed the amounts to be recovered from the appellant on this account. Various penalties were also imposed on the appellants. On appeal, the Commissioner (Appeals) vide the impugned order decided all these cases and held that reversal of credit, as ordered by the Original Authority, is correct and dismissed the appeals filed by the appellants.

2. Ld. Counsel for the appellants submitted on the following points:-

(a) From the beginning, the appellants have been contesting their liability to reverse any credit on these inputs. He explained that the appellants received large number of duty paid inputs from various vendors. They scrutinized and checked-up standards and qualities of inputs, before taking into account the stock to be used for further manufacture. The inputs, which are not meeting the standards are returned and the credit taken on such inputs are reversed. Some of the inputs, which are issued to the process of manufacture, may also get either damaged or found unfit during the course of process of manufacture due to various reasons. The processing sections dealing with the inputs prepared a note of rejection and based on that, accounts are accordingly entered. The inputs so rejected during process, become part of scrap. For account purpose, the value of such rejected items, is “written off” and shown accordingly.

(b) The inputs, which are used for intended purpose, are eligible for credit of duty paid on them.

(c) During the course of manufacturing process, due to various reasons some of the inputs are found either unfit or not upto the mark, due to various technical reasons and are not used by the concerned manufacturing sections. In such cases, there is no need to reverse the credit on such inputs as they have been used for intended purpose and however, could not become part of the final product as they get damaged or rejected during the course of manufacturing process.

3. Ld. Counsel relied on the various decided cases to support his submissions that the "write off" of inputs on account of damage or unfit during the course of manufacture, cannot be equated to clearance of inputs as such and no reversal of credit is warranted in such situation.

4. Ld. Counsel drew my attention to the sequence of accounting, followed by the appellants in their Computer System, to demonstrate that after issue of inputs to the process of manufacture, some of the inputs were found to be damaged or get damaged and such inputs were added in the "product non-conformity note", which was later entered into their system. The value of such inputs are "written off" as per the Standard Accounting Procedure. The scrap value is added as and when realized, into the credit of their accounts. The inputs may get scrapped due to various reasons like mis-handling by workers, process trial, destructive testing, etc. All these are part of manufacturing process and this scrap so generated and input written off cannot be considered as clearance of inputs as such.

5. Regarding maintenance of accounts, ld. Counsel categorically stated that each one of the transactions in the appellant's unit gets captured in the SAP accounting and it is not correct to say that they have not maintained stock accounts. The appellants are dealing with hundreds of components of various specifications and without the computerized accounting flow, the manufacturing process is not possible.

6. Ld. Counsel contested the demand for extended period and also imposition of penalty. The whole case is based on the records maintained by the appellants. There is no sustainable ground for the allegation of suppression, mis-statement, etc.

7. Ld. AR contested the grounds of appeal. He stated that the complete “write off” of the value of the inputs will clearly indicate that the said inputs were not put to use in the process of manufacture. It is for the appellant to establish that these inputs were put to use and got damaged only during the course of manufacture. He further stated that the Board’s Circular dated 16.07.2002 stipulates that on the inputs, which are not used and are “written off” in the books of assessee, the credit shall not be entitled. The appellants failed to establish categorically that these inputs were in fact got damaged or rejected during the course of manufacture only.

8. I have heard both the sides and perused the appeal records.

9. The appellant’s liability to take credit on various inputs is not in dispute. If the inputs are used in the manufacture of final products, the credit can be righty availed and used. The dispute in the present appeals relates to the allegation that some of the inputs have not been put to the intended use and as such, the credit availed on them should be reversed. The basis of the allegation is that the appellant in their books of accounts, written off the value of some inputs, by debiting material loss of bought-out rejections, which are scrapped. If the appellants have scrapped the items and the value was “written off” fully, the Revenue alleged that no credit is eligible on the same. The credit already taken should be reversed. I find that the whole issue narrows down to the point whether or not the inputs were used for intended purpose. Once it is recognized and established that the inputs have

been put to intended purpose, it is not relevant whether some of them get damaged or rejected during the course of manufacture. Such damaged input/rejection resulting in scrapping of such inputs will have no impact on the credit availed on them. In other words, the eligibility of the credit on the inputs, which are in fact put to intended use, cannot be questioned for any other reason. In the present case, admittedly, the appellant written off the full value of some of the inputs stating that these are material loss of bought out items, which are rejected/scrapped. The accounts maintained by the appellant to this effect is the sole basis for proceedings against them. There is no other evidence to allege that the inputs on which credit has been availed were in fact cleared as such. The appellants explained the process of accounting. I have perused the flow of accounts, as explained by them. It is apparent that the 'product non-conformity note' was generated in various shop floor/manufacturing facility like press shop, engine assembly, etc. These products non-conformity note indicate various reasons/defects in the components like crack, heavy scratch, not of specification, etc. These are found during the usage of these duty paid inputs. The process of such rejection or damage during the course of manufacture of final products, like motor vehicles, is not uncommon. It is not correct to state that all the inputs on which credit has been taken, should ultimately form part of the final dutiable products. There will be certainly some damage, scrapping/rejection during the course of manufacture.

10. It is seen that the similar issue has come before the Tribunal in various earlier cases as mentioned below:-

(1) 2005 (191) ELT 593 (Tribunal-Delhi) CCE Vs. Lifelong Appliances Ltd.

(2) 2006 (199) ELT 876 (Tribunal-Bang.) –CCE Vs. BST Ltd.

(3) 2009 (237) ELT 730 (Tribunal-Chennai) –Titan Industries Ltd. Vs.CCE, Chennai.

(4) 2010 (259) ELT 64 (Tribunal-Chennai) Lakshmi Ring Travellers (CBE) Ltd. Vs. CCE,Coimbatore.

(5) 2010 (261) ELT 340 (Tribnal-Bang.)- CCE, Bangalore Vs. IFB Automotive (P) Ltd.

(6) 2015 (323) ELT 634 (Tribunal-Delhi)- CCE & ST, Rohtak Vs. Park Nonwoven Pvt. Ltd.

(7) 2016 (339) ELT 265 (Tribunal-Ahmd)-CCE & ST,Vapi Vs. Castrol India Ltd.

11. In these cases, the Tribunal held that the credit on inputs, which are rejected during the course of manufacture (line rejections) cannot be denied as they are already put in the process of manufacture. When the duty paid inputs were issued for the process of manufacture and later, during the course of usage, either got damaged or found not upto the mark, these are rejected and scraped. At the time of clearance as scrap, duty as applicable, are discharged. As such, in terms of the legal principle as examined by these decisions, I find that denial of credit is not justifiable.

12. Revenue emphasized on non-maintenance of record to establish that these are in fact line rejections. As explained earlier in this order, the accounts flow as demonstrated by the appellant indicate that the inputs do get rejected in the shop floor/manufacturing area and these are reported for accounting and ultimately, their value is “written off” as per accepted accounting standards. The full value of the inputs having been “written off” in the accounts because of this reason by itself

cannot be inferred to mean that these inputs are cleared as such. Such inference will be without any basis.

13. In view of the above discussion and analysis, I find no justification for denial of credit as confirmed by the impugned order. Accordingly, the impugned orders are set aside. The appeals are allowed.

[Order dictated & pronounced in open court]

(B. Ravichandran)
Member (Technical)

Ckp.