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

Date of hearing/decision: 21.04.2017

Excise Appeal No. 1248 of 2012
(Arising out of order-in-appeal No. 01(AKJ) CE/JPR-I/2012 dated 15.02.2012 passed by the Commissioner, Central Excise (Appeals), Jaipur).

M/s Garg Ispat Udyog Ltd. Appellant

Vs.

CCE, Jaipur-I Respondent

Appearance:

Sh. Vijayan Khangal, Advocate for the appellant
Sh. H. C. Saini, AR for the Revenue

Coram:

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

Final Order No. 53349/2017

Per: Justice (Dr.) Satish Chandra:

The present appeal is filed against the order-in-appeal No. 01(AKJ) CE/JPR-I/2012 dated 15.02.2012 passed by the Commissioner, Central Excise (Appeals), Jaipur. The Period of dispute is from 2007 to 2008.

2. Brief facts of the case are that during the period under consideration, the appellant was engaged in the manufacture of M.S. pipes falling under chapter heading 73 of the Central Excise Tariff Act, 1985. During the audit, it was noticed by the department that the appellant has shown the captive consumption under the head of gross turnover in balance sheet for the year 2007-2008. On being

enquired about the same, the appellant informed the department that the said pipes were used as structural material and no duty was paid on such clearances. But department was not satisfied, so duty was demanded. Being aggrieved, the present appeal is filed by the appellant.

3. With this background, we heard Sh. Vijayan Khangal, ld. Advocate for the appellant and Sh. H. C. Saini, ld. AR for the Revenue.

4. From the record it appears that the pipe has already come up in the list of Rule 2(a) of the Cenvat Credit Rules, 2004. It is not disputed that the said pipe was used for the captive consumption. When it is so, then we are of the view that the appellant is entitled for the exemption under Notification No. 67/95-CE dated 16.03.1995. The same view was expressed by the Tribunal in the case of ***Kalindi Ispat Pvt. Ltd. vs. CCE, Raipur – 2017-TIOL-37-CESTAT-DEL*** as well as in the case of ***SKS Ispat and Power Ltd. vs. CCE, Raipur -2016-TIOL-2769-CESTAT-DEL***. By following our earlier decisions (supra), we find no reason to sustain the impugned order. The same is hereby set-aside.

5. In the result, appeal filed by the appellant is allowed.

(Dictated and pronounced in the open Court).

(V. Padmanabhan)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

Pant