

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. 1041 of 2012

(Arising out of order- in-appeal No. 10/RPR-I/2012 dated 18.01.2012 passed by the Commissioner (Appeals-I) Central Excise & Customs, Raipur).

M/s Agrawal Channel Mills Pvt. Limited Appellant

Vs.

CCE, Raipur

Respondent

Appearance:

Sh. Vijayan Khongal, 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)

F. O. No. 53351/2017

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

The present appeal is filed by the appellant against the order- in-appeal No. 10/RPR-I/2012 dated 18.01.2012 passed by the Commissioner (Appeals-I) Central Excise & Customs, Raipur. The period of dispute is from June 2009 and August 2009.

2. Brief facts of the case are that during the period under consideration, the appellant was engaged in the manufacture of iron & steel falling under chapter heading 72 of the Central Excise Tariff Act, 1985. During scrutiny of ER-1, it was noticed by the department that the appellant have cleared structural items i.e. M.S. Angles, Channels, and Joists without payment of duty under Notification No. 67/95-CE dated 16.03.1995 for captive consumption. So, duty was

demanding by the department. Being aggrieved, the present appeal is filed by the appellant.

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

4. During the course of argument Id. Advocate submits that the said benefit was denied by the department for the reasons that the Chartered Engineer certificate issued by the Chartered Engineer was not made available to the lower authorities as per the condition laid down in the said notification. Id. Advocate submits that the Chartered Engineer certificate is available with the appellant and the same can be produced before the lower authority. He assured that full cooperation with the adjudicating authority will be provided. In view of above, we set-aside the impugned order and remand the matter to the adjudicating authority to decide the issue denovo after examining the genuineness of the certificate.

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

(Dictated and pronounced in the open Court).

(V. Padmanabhan)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

Pant