IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-SM

COURT –III

Excise Appeal No.E/50065-50066/2017 SM]
[Arising out of Order-in-Appeal No.238-239-CE-DLH-2016 dated 30.09.2016 passed by the Commissioner (Appeals-I), Customs & Central Excise, New Delhi]

M/s.Veekay General Industries …Appellant

Vs.

C.C.E., Delhi-II … Respondent

Present for the Appellant : Mr. R. Ballabh, Advocate
Present for the Respondent: Mr.G.R. Singh, D.R.

Coram: HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

Date of Hearing/Decision:14/06/2017

FINAL ORDER NO. __54401-54402/2017_

PER: S.K. MOHANTY

These appeals are directed against the impugned order dated 30.09.2016 passed by the Commissioner (Appeals), Central Excise, New Delhi.

2. Heard both sides and perused the records.

3. In this case, for non-accountal of copper scrap in the statutory records, proceedings were initiated by the Department for confiscation of the said goods and for imposition of penalties. The show cause notice issued in this regard, culminated in the adjudication order dated 31.12.2015, wherein 3.26 M.T. of copper scrap valued at Rs.15,64,800/-

was confiscated, with the option to redeem the same on payment of redemption fine of Rs.3,00,000/-. Besides, penalties of Rs.50,000/- on the appellant – assessee and Rs.30,000/- on the partner of the assessee were imposed.

4. The ld. Advocate appearing for the appellant submits that the provisions of Rule 25 of the Central Excise Rules, 2002 are not applicable to raw-material/ inputs and thus, since copper scrap were used as raw-material for manufacture of finished goods, the same cannot be confiscated under Rule 25 ibid and no penalties can be imposed on the appellants.

5. On the other hand, the ld. D.R. appearing for the respondent submits that raw-material / inputs can also be confiscated, for the reason that the same had been used within the factory, without accounting-for in the statutory records.

6. With regard to the submissions of the ld. Advocate that raw- material cannot be confiscated, I find that Rule 25 ibid provides for confiscation of goods and imposition of penalty, if the same were not used for manufacture of final product and the particulars were not accounted for in the prescribed register. Therefore, confiscation of goods and imposition of penalties by the authorities below are in conformity with the statutory provisions. However, considering the fact that un-accounted for copper scrap were available in the factory, I am of the view that the redemption fine and penalties imposed on the appellants can be reduced in the facts and circumstances of the case.

7. Therefore, the impugned order is modified to the extent of reducing the redemption fine from Rs.3,00,000/- to Rs.1,00,000/-. However, the penalties imposed on the appellant are confirmed.

8. The appeals are disposed of in above terms.

[Dictated and pronounced in the Open Court]

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita