CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-III

Date of hearing: 03.07.2017

Appeal No. E/50137/2014-EX[SM]

[Arising out of the Order-in-Appeal No. 306/RPR-1/2013 dated 30.08.2013, passed by the Commissioner of Central Excise, Raipur]

M/s. Trimula Sponge Iron Pvt. Ltd. … Appellant

Vs.

CCE & ST Raipur ... Respondent

Appearance:

Present Shri Manish Saharan, Advocate for the appellant
Present Shri G.R. Singh, DR for the respondent

Coram: Hon'ble Mr. V. Padmanabhan, Member (Technical)

FINAL ORDER No. 54543/2017

Per V. Padmanabhan:

The appeal is against order in original no. 306/13 dated 30.08.2013.

2. The appellants had taken Cenvat credit of Rs.49,414/- in respect of duty paid on coal received by them from the suppliers. The adjudicating authority held that as the coal was unconditionally exempt under Notification No. 63/95 dated 16.3.1995 the duty paid thereon "cannot be construed as duty" and therefore Cenvat credit thereof is inadmissible.

3. I have considered the issue. It is seen that the appellants had taken credit of duty which is clearly shown bnin the invoices of the suppliers. As regards the contention that the duty on the said coal was not payable, it is to be understood that the appellants being recipient of the goods are not in a position to sit in judgment over the dutiablity of the product which they have only bought from suppliers.

3. I also find that the issue has come up before the Tribunal in the case of ***CCE Raipur Vs. SKS Ispat and Power Ltd. vide Final order no. 54189/2015 dated 15.09.2015***, wherein the credit was allowed under identical circumstances.

4. By following the above order passed in identical circumstances, I allow the appeal filed by the appellant.

[Dictated and Pronounced in the open court]

(V. Padmanabhan)
Member (Technical)

Bhanu