IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Decision: 1.8.2017

Appeal No. E/934/2011-SM with E/CO/193/2011

(Arising out of Order-in-Appeal No. 10/RPR-I/2011 dated 11.1.2011 passed by the Commissioner (Appeals), Central Excise & Customs, Raipur)

M/s Alok Ferro Alloys Ltd. Appellant

Vs.

CCE, Raipur Respondent

Appearance

Shri Krishna Mohan K. Menon, Advocate - for the appellant

Shri K. Poddar, D.R. - for the respondent

CORAM: **Hon'ble Mr. Ashok K. Arya, Member (Technical)**

Final Order No. 55684/2017

Per Ashok K. Arya :

The appellant is in appeal against the Order-in-Appeal No. 10/2011 dated 11.1.2011 whereunder Cenvat credit for the consumables items (used in raw material handling, repair and maintenance), and for M.S. angles, channels, plates etc. used in capital goods amounting to Rs.11,34,436/- has been denied. The period involved is Jan. 2008 to Nov. 2008.

2. Both the sides represented by Shri Krishna Mohan K. Menon, ld. Advocate for the appellant and Shri K. Poddar, ld. DR for the Revenue, have been heard.

3. The appellant mainly pleads that the subject items have been used either as consumables or as components/accessories of capital goods for manufacturing Silico - Manganese falling under Chapter 72 of Central Excise Tariff. The appellant in support cites the Tribunal's decision in the case of *SJS Ispat & Power Ltd. Vs. CCE, Raipur* – 2016-TIOL-2769-CESTAT-DEL. and Hon'ble Chhattisgarh High Court decision in the case of *Ambuja Cements Eastern Ltd. Vs. CCE, Raipur* – 2010 (256) ELT 690 (Chhattisgarh). The appellant also refers to the copy of Chartered Engineer's certificate dated 21.11.2016 saying that subject items were consumed in the plant of the appellant as inputs.

4. The ld. DR for the Revenue, on the other hand, pleads that the appellant has failed to establish proper use of subject inputs, therefore, they are not entitled to Cenvat credit.

5. After having carefully considered the facts of the case and submissions of both the sides, it appears that it is necessary that the fact of use of the subject items is examined, verified by the original adjudicating authority, who shall also look into the contents of the Chartered Engineer's certificate dated 21.11.2016, which was

referred to during the hearing by the appellant. Consequently, the impugned order is set aside and the matter is remanded for fresh adjudication to the original adjudicating authority, who after giving opportunity of personal hearing and submission of documents, if any, to the appellant, will do so.

6. In the result, the appeal is allowed by way of remand in above terms. Cross objections also stand disposed of.

(Dictated & pronounced in open Court)

(Ashok K. Arya)
Member (Technical)

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