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

COURT-I

Date of hearing/Decision: 25.07.2017

Appeal No. E/56962,57005/2013 EX [DB]
[Arising out of the Order in Original No.Commr./RPR/01/CEX/2013 dated 31/01/2013 Passed by The Commissioner, Custom & Central Excise, Raipur]

M/s Jindal Steel & Power Ltd. … Appellant

Vs.

CCE Raipur … Respondent

Appearance:
Present Mr. H.Bajaj, for the appellant
Present Shri S.K. Bansal, DR for the respondent

Coram: Hon'ble Justice Dr. Satish Chandra, President
Hon'ble Mr.Ashok K.Arya, Member (Technical)

FINAL ORDER No. 55651-55652/2017

Per:Justice Dr. Satish Chandra

1. Both the appeals have been filed against Orders in Original No. 19 & 01/2013 both dated 31/01/2013. The disputed period is July 2010 to March, 2011.

2. The brief facts are that:

   i. During the period under consideration the appellant was engaged in the manufacture of sponge iron, pig iron and steel items falling under Chapters 72, 73, 74 and 84 of the Central Excise Tariff.

   ii. The appellant has its registered office in Hisar, Haryana and Corporate Office at New Delhi. The appellant has units and mines at various locations in the country. For the purpose of transportation of Directors, executives, engineers, consultants, sales personnel and other visitors the appellant hired the aircraft from M/s India Flysafe Aviation Ltd.

iii. The appellant has claimed the tax paid on the expenses for the aircraft under the input service credit as the aircraft was used for the purpose of business of manufacturing. But the Adjudicating Authority has denied the same by observing that the aircraft might have been used for other purposes too. In other words, it might not have been used exclusively in or in relation to business of manufacturing of final goods. Being aggrieved, the appellant has filed the present appeal.

3. With the above background, we heard Shri Hemant Bajaj, Ld. Counsel for the appellant and Shri Shravan Kumar Bansal, Ld. DR for the revenue.

4. During the course of the arguments, the Ld. Counsel for the appellant submits that the Adjudicating Authority has not decided the case in the light of show cause notice. It is further allegation that all the details were submitted before the lower Authority which were not considered.

5. Ld. Counsel for the appellant submits that detailed evidence can be provided to the adjudicating authority, if chance be given. On the other hand, the Ld. DR for the Revenue submits that the Adjudicating Authority has decided the cases as per the details furnished by the appellant.

6. However, both parties have agreed that there are discrepancies in the show cause notice as well as in the observation/ reasoning mentioned in the impugned order. When it is so, then we set aside the impugned orders and remand the matter to the Original Adjudicating Authority to decide the issues denovo after

examining the entire details of the use of aircraft(s) in question. In other words, the Adjudicating Authority shall examine, whether the aircraft(s) were used exclusively in or in relation to business of manufacturing of final goods as per the Rule 2 (l) of the Cenvat Credit Rules, 2004 after examining the documents which can be produced by the appellant again. Opportunity of hearing as well as additional evidence, may be admitted as per law.

7. In the result, both the appeals are allowed by way of remand.

[Order Dictated and Pronounced in the open court]

(Ashok K. Arya)
Member (Technical)

(Justice Dr. Satish Chandra)
President

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