IN THE CUSPTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing/Decision:31.08.2017

Excise Appeal No.52241/2016-EX

[Arising out of Order-in-Original No.JAI-EXCUS-001-COM-33-14-15 dated 08.09.2014 of the Commissioner of Central Excise , Jaipur]

M/s. Phillips Carbon Black Co. Appellants

Vs.

CCE, Jaipur-I Respondent

Appearance:

Rep. by Shri Shekhar Vyas, Advocate for the appellant.
Rep. by Shri S.K. Bansal, DR for the respondent.

Coram: Hon'ble Shri S. K. Mohanty, Member (Judicial)
Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No.56702/2017

Per B. Ravichandran:

The appellant is aggrieved by order dated 8.9.2014 of Commissioner of Central Excise, Jaipur-I. The impugned order disallowed cenvat credit availed by M/s.Balkrishna Industries Ltd., Bhiwadi. The appellants are supplier of carbon black to M/s. Balkrishna Industries Ltd. The duty paid on carbon black was availed as credit by M/s. Balkrishna Industries Ltd. In the present appeal, the appellants are contesting the imposition of penalty under Rule 26(2) of Central Excise Rules, 2002.

2. Ld. Counsel brought to our notice that in earlier orders of the Tribunal in appellant's own case vide Final Order No.54833-54834/2016 dated 21.10.2016, the Tribunal relying on the earlier decision in **Balakrishna Industries Ltd. – 2014 (309) ELT 354 (Tribunal-Delhi)** set aside the penalty imposed on the appellant. Further, he mentioned that against the present impugned order, the main party (M/s.Balkrishna Industries Ltd) filed appeal, which was decided by Tribunal vide Final Order No.51764-51765/2016 dated 9.5.2016. The Tribunal relying on the earlier decision for the same appellant allowed the appeals by setting aside the impugned order.

3. Heard both sides and perused the appeal records.

4. Admittedly, the appeal by the main party against the present impugned order has been allowed by the Tribunal vide Final Order dated 9.5. 2016. As such, there is no justification for imposition of penalty on the appellant. Following the decision of the Tribunal in the case of the main party as well as in the appellant's own case for earlier period, we find no merit in the present impugned order. Accordingly, the same is set aside. The appeal is allowed with consequential relief.

[order dictated & pronounced in open court]

(S.K. Mohanty)
Member (Judicial)

(B. Ravichandran)
Member (Technical)

Ckp.