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

Date of Hearing/Decision: 31.8.2017

Appeal No. E/55468-55469/2013-SM

(Arising out of Order-in-Appeal No. 64-65(RDN)/CE/JPR-II/2012 dated 18.10.2012 passed by the Commissioner, Central Excise, Jaipur)

M/s Rose Zinc Ltd. — Appellant

Vs.

CCE & ST, Jaipur-II — Respondent

Appearance

Shri Kumar Vikram, Advocate - for the appellant

Shri G.R. Singh, A.R. - for the respondent

CORAM: **Hon'ble Mr. Ashok Jindal, Member (Judicial)**

Final Order No. 56742-56743/2017

Per Ashok Jindal :

The appellants are in appeal against the impugned orders wherein Cenvat credit sought to be denied on the premise that the appellant is not maintaining separate account of inputs/input services used in manufacturing of dutiable as well as final exempted goods.

2. The brief facts of the case are that the appellant is engaged in manufacture of zinc ingots and zinc sulphate and zinc oxide. The zinc oxide for fertiliser grade is exempt from duty but the appellant has not maintaining the separate account for input/input services.

Therefore, the Cenvat credit sought to be denied on the items used in the manufacture of final exempted goods. In these set of facts, two show cause notices were issued to the appellant to deny Cenvat credit on inputs and outward transportation service used for final exempted goods. Both the authorities below, denied the Cenvat credit to the appellant and confirmed the demand along with interest and imposed equivalent amount of penalties. Aggrieved from the said orders, the appellants are before me.

3. Heard both the parties and perused the record.

4. On perusal of the record, I find that the appellant is paying value of 10% of the exempted final goods in terms of Rule 6(3) of the Cenvat Credit Rules, 2004. In the Show Cause Notice, it is alleged that as the appellant is not maintaining separate account of input/input services used for manufacturing of dutiable as well as exempted goods, but as per Rule 6(3) of Cenvat Credit Rules, it is provided that if assessee is not maintaining separate account of input/input services. In that circumstances, assessee is liable to pay 10% of the value of the exempted goods. As the fact of payment of 10% of value of exempted goods has not been disputed by the Revenue, in that circumstances, the Cenvat credit on input/input services cannot be denied to the appellant in terms of Rule 6(3) of

Cenvat Credit Rules, 2004. Therefore, I do not find any merit in the impugned orders. Accordingly, the same are set aside.

5. In result, the appeals are allowed with consequential relief, if any.

(Dictated & pronounced in open Court)

(Ashok Jindal)
Member (Judicial)

RM