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

Date of hearing/decision: 29.09.2017

E/COD/50484/2017-SM
Appeal No. E/50922/2017-SM

(Arising out of order in appeal No. 208(AK)CE/JPR/2016 dated 05.01.2017 passed by the Commissioner (Appeals), Central Excise Commissionerate Jaipur).

M/s. Amar Pratap Steels Pvt. Ltd. Appellant

Vs.

C.C.E. & S.T., Jaipur-I Respondent

Appearance:

Ms. Rinki Arora, Advocate for the appellant –Revenue

Sh. A.K. Singh, DR for the Respondent -assessee

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

F. O. No. 56910/2017

Per: **Ashok Jindal:**

The appellant is in appeal against the impugned order, wherein the cenvat credit on Cement and Asbestos sheet, has been denied on the ground that these are neither input nor capital goods in terms of Rule 2(k) or Rule 2(a) of the Cenvat Credit Rules, 2004 during the period September, 2009 to April, 2010 whereas show cause notice has been issued on 23.09.2011.

2. Heard the parties. Considering the facts that the issue of availment of cenvat credit on these goods was in dispute and the same has been resolved by the Larger Bench of this Tribunal on 30.04.2010 in the case of Vadana Global Ltd. (2010 (253)E.L.T. 440 (Tribunal L.B)). In that circumstances, extended period of limitation is not invokable.

3. Further, in the similar facts in the case of K.M. Sugar Mills Ltd 2017 (350) E.L.T. 273(Tri.-Del.) this Tribunal held that in such circumstances the extended period of limitation is not invokable. Admittedly, the show cause notice has been issued in the matter by invoking extended period of limitation. In that circumstances, I hold that the show cause notice is barred by limitation.

4. Therefore, the duty demands are not sustainable against the appellant. In view of the above observations, the impugned order is set aside and the appeal is allowed with consequential relief, if any.

(Dictated and pronounced in the open Court).

(Ashok Jidnal)
Member (Judicial)

Sakshi