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

Date of Hearing/Decision: 29.09.2017

Appeal No. E/50384/2017-SM

(Arising out of Order-in-Appeal No. 194(AK)CE/JPR-I/2016 dated 22.11.2016 passed by the Commissioner (Appeals), Central Excise & Service Tax, Jaipur)

M/s. Ultratech Cement Ltd. Appellant

Vs.

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

Appearance

Mr. Hemant Bajaj, Advocate - for the appellant

Mr. A.K. Singh, DR - for the respondent

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

Final Order No. 56949/2017

Per Ashok Jindal :

The appellant is in appeal against the impugned order, wherein cenvat credit on inputs has been denied on the premise that same has not been taken as per proper document prescribed in the Rule, 9(2) of Cenvat Credit Rules, 2004.

2. The brief facts of the case are that the appellant is awarded a contract to M/s. Simplex Infrastructures Ltd. for errection and commissioning of Plant & Machinery. The inputs were procured by M/s. Simplex Infrastructures being a service provider and the appellant being a buyer. The excess inputs procured by the M/s.

Simples Infrastructures were transferred to the appellant under a challan showing that the said goods remained unutilised and the same are transferred to the appellant. On basis of a challans, the appellant availed the cenvat credit.

3. Revenue is of the view that as these challans are not admissible document as per Rule, 9(2) of Cenvat Credit Rules, 2004 therefore, the appellant is not entitle to avail cenvat credit. Both the authorities below, denied the cenvat credit, In result, demanded duty alongwith interest and imposed penalty against appellant. Aggrieved the said order, the appellant is before me.

4. Heard the parties. The whole dispute in this case is that the challans on which the appellant availed cenvat credit is not a proper document as per Rule 9(2) of Cenvat Credit Rule, 2004.

5. I find that in this case it is not disputed the appellant has not received inputs and duty paid there on. Therefore, in the light of the the decision of the Hon'ble High Court of Punjab & Haryana in the case of the "Stelko Strips Ltd." 2010 (255) E.L.T 397 (P &H). Wherein the Hon'ble High Court of Punjab & Haryana hold that when it is not disputed as the appellant has received the inputs and paid duty there on.

6. In that circumstances, the cenvat credit cannot be denied. Admittedly, in this case, the appellant has received the inputs and paid duty thereon.

7. In that circumstances, the cenvat credit cannot be denied merely, on the basis of the fact the appellant has taken cenvat credit on the challans issued by the service provider to the appellant.

8. In these terms, I set aside the impugned order and allow the appeal.

(Dictated & pronounced in open Court)

(Ashok Jindal)
Member (Judicial)

Sakshi