CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. 1

Date of hearing/decision: 01.11. 2017

Ex. Appeal No. 60605 of 2013

(Arising out of order in original No. COMMR/RPR/CEX/92/013 dated 30.08.2013 passed by the Commissioner, Central Excise, Raipur).

M/s Anjani Steel Limited Appellant

Vs.

CCE, Raipur Respondent

Appearance:

Sh. Bipin Garg, Advocate for the appellant
Sh. H. C. Saini, AR for the respondent

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Final Order No. 57562/2017

Per: **V. Padmanabhan:**

The present appeal is filed against the order in original No. COMMR/RPR/CEX/92/013 dated 30.08.2013 passed by the Commissioner, Central Excise, Raipur.

2. The appellant is engaged in the manufacture of sponge iron, billets, blooms etc. For manufacture of billets in the factory, the appellant fabricates the moulds which are required for such purpose. The appellant procured various iron and steel structural items such as C.R. Coil, C.R. Coil Sheet, CTD bar, electrodes, HR coil, H.R. sheet and also oxygen gas, welding rods etc. for use in the fabrication of

such moulds. They availed cenvat credit on such inputs which stands denied by the Revenue vide the impugned order. Revenue has taken the view that the mould manufactured and used captively is not required to discharge any duty under the captive consumption Notification No. 67/95 dt. 16.03.1995. Accordingly, they have taken the view that the cenvat credit on these inputs which are used for exempted goods will not be entitled. The other related objection raised by the Revenue is that when the accounts of the assessee were verified during audit, it was found that they have not maintained any record of the quantity of such moulds manufactured and captively used within the factory. Aggrieved by the demand for repayment of cenvat credit, the present appeal is filed by the appellant.

3. With the above background, we heard Sh. Bipin Garg, ld. Advocate for the appellant as well as Sh. H.C. Saini, ld. AR for the Revenue.

4. It is the submission of the ld. Counsel that all the inputs for which cenvat credit was availed have been used within the factory for manufacture of moulds which, in turn, are further used for manufacture of billet. It is his submission that such moulds are a type of capital goods as defined in Rule 2(a)(iv) of the Cenvat Credit Rules, 2004. The inputs required for manufacture of capital goods within the factory are allowable as inputs but the cenvat credit was denied. Accordingly, he submitted that the assessee was entitled to such cenvat credit.

5. Ld. AR for the Revenue justified the impugned order. He submitted that what was fabricated within the factory was not moulds but were frames for moulds. He also emphasised the point that the assessee has failed to maintain any record of such goods fabricated within the factory. Hence, he justified the denial of cenvat credit.

6. After hearing both the sides and perusal of record, we find that the claim of the assessee is that all the inputs such as C.R. Coil, Coil sheet, CTD bar and other items, which were procured and on which cenvat credit was availed, has been used in the fabrication of mould for captive use within the factory for manufacture of billets. The adjudicating authority has also recorded that such moulds have been cleared without payment of duty. It is further recorded by the adjudicating authority that the moulds manufactured within the factory has not been accounted within the records of the assessee as has been verified during audit.

7. If the inputs are used for manufacture of moulds, the same are to be considered as used in the manufacture of capital goods. Cenvat Credit Rule 2(k) also provides for allowing cenvat credit on inputs used for the manufacture of capital goods within the factory. However, we are unable to reading extend such benefit in the light of the observations by the adjudicating authority that the details of the moulds manufactured within the factory has not been accounted. Hence, we are of the view that before extending the benefit of such cenvat credit, the assessee is required to satisfy the Revenue to the extent that the moulds which are said to have been manufactured out of the inputs are duly accounted and used in the manufacture of product i.e. billets. Only after such verification, the cenvat credit can be allowed.

8. For the purpose of verification, we set aside the impugned order and remand the matter to the adjudicating authority. The assessee will satisfy the Revenue by way of documentary evidence regarding accounting and usage of such moulds. Subject to such verification cenvat credit may be allowed by the adjudicating

authority. Due opportunity may be granted to the appellant before taking a decision.

9. In the result, appeal is allowed by way of remand.

(Dictated and pronounced in the open Court).

(Justice (Dr.) Satish Chandra)	(V. Padmanabhan)
President	Member (Technical)

Pant