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

COURT NO. II

DATE OF HEARING/DECISION : 20/12/2017.

Excise Appeal No. 844 of 2012 (SM)

[Arising out of the Order-in-Appeal No. 188/RPR-I/2011 dated 17/11/2011 passed by The Commissioner (Appeals), Central Excise & Customs (Appeals – I), Raipur.]

M/s Steel Products Ltd. Appellant

Versus

CCE & ST, Raipur Respondent

Appearance

Shri Jatin Mahajan, Advocate – for the Appellant.

Shri U. Sengraj, Authorized Representative (DR) – for the Respondent.

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

Final Order No. 58529/2017 Dated : 20/12/2017

Per. Ashok Jindal :-

The appellant is in appeal against the impugned order for denial of Cenvat credit on the ground that the documents against which they have availed Cenvat credit are not the proper document as per Rule 9 (1) of Cenvat Credit Rules, 2004. Further, it was also observed that the Cenvat credit has been used for payment of service tax and Cenvat credit availed is on excise duty paid goods, the same Cenvat credit availed for duty payment cannot be utilised for payment of service tax.

2. Heard the parties considered the submissions.

3. I find that in this case the appellant did not produce the required document before the Adjudicating Authority and the learned Commissioner (Appeals) did not take cognizance document produced before him and Cenvat credit was denied. In fact when the appellant has produced the invoices/documents against which they have availed Cenvat credit before the learned Commissioner (Appeals), the learned Commissioner (Appeals) was duty bound to examine them and was required to give his findings on the merits thereof, but the said exercise has not been done by the learned Commissioner (Appeals). In that circumstances, impugned order is set aside and matter is remanded to Commissioner (Appeals) to examine the documents produced by the appellant before him and thereafter to pass an appropriate order in terms of law after affording reasonable opportunity to the appellants to present their case.

4. In view of the above analysis, the impugned order is set aside and the matter is remanded back to the learned Commissioner (Appeals) as directed hereinabove. Appeal is disposed of in the above manner.

(Order dictated and pronounced in the open court.)

(Ashok Jindal)
Member (Judicial)

PK