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

Date of hearing/decision: 02.01.2018

Custom Appeal No. 779 of 2007
(Arising out of order in appeal No. 307(GRM)CE/JPR-I/2006 dated 22.12.2006 passed by the Commissioner (Appeals-I), Central Excise, Jaipur)

CCE, Jaipur Appellant-Revenue

Vs.

M/S Balaji Industries Products Ltd. Respondent

Appearance:

Sh. P. Juneja, AR for the Revenue
Ms. Surbhi Sinha, AR for the Respondent-assessee

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. B. Ravichandran, Member (Technical)

Final Order No. 50018/2018

Per: **B. Ravichandran**:

The present appeal is filed by the Revenue against the order in appeal No. 307(GRM)CE/JPR-I/2006 dated 22.12.2006 passed by the Commissioner (Appeals-I), Central Excise, Jaipur.

2. The respondent-assessee was engaged in the manufacture of Alloy Steel Casting and imported Nickel Cathods, Unwrought & un-alloyed Nickel CAT and claimed exemption under Notification No. 17/2001 dated 01.03.2001 and 21/2002 dated 01.03.2002. The condition for concessional rate of custom duty is that the imported unwrought nickel should be used in the manufacture of steel. The Revenue entertained a view that alloy steel is not steel and accordingly nickel is not used in the manufacture of steel. On

this premise the concession claimed was denied by the original authority. On appeal, vide the impugned order, the Commissioner (Appeals) set aside the original order and allowed the concession. Aggrieved by the impugned order, the present appeal is filed by the Revenue.

3. We have heard both the sides and perused appeal record.

4. The impugned order records the scope of the term “Steel”. Referring to definition of “Steel” as per note (d) of Chapter 72 of the Custom Tariff the Commissioner (Appeals) held that the respondent-assessee are manufacturing nickel alloy steel; the term “Steel” will include steel in molten form. Accordingly, he rejected the allegation of Revenue that the respondent-assessee claimed the concession wrongly.

5. We note that against the above factual finding in the impugned order the Revenue has not brought out any substantial ground either on fact or on law. In the grounds of appeal the Revenue relied on the classification under Chapter 73 which talks about articles of iron and steel. The plea is that since the respondent-assessee is manufacturing Alloy Steel Casting which falls under Chapter 73 the exemption claimed cannot be allowed. We find that such assertion is not directly relevant for exemption under the said notification. Admittedly, the respondent-assessee imported nickel and used the same in the manufacture of alloy steel. The fact that the said alloy steel is in the form of various casting by itself will not make the respondent – assessee ineligible for exemption.

6. In view of the above discussion, we find no merit in the impugned order. Accordingly, the same is dismissed.

(Dictated and pronounced in the open Court).

(Justice (Dr.) Satish Chandra) President	(B. Ravichandran) Member (Technical)

Pant