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

Date of Hearing: 4.1.2018
Date of Pronouncement: 12.1.2018

Appeal No. E/57637-57638/2013-SM

(Arising out of Order-in-Appeal No. I02-103/CE/DLH/2012 dated 30.11.2012 passed by the Commissioner (Appeals), Central Excise, New Delhi)

M/s Daga Trading Co. (P) Ltd. Appellant
Shri Ramesh Kumar Daga

Vs.

CCE, Delhi-I Respondent

Appearance

Shri M.K. Gandhi, Advocate - for the appellant
Ms. Ambica Singh, C.A.

Shri G.R. Singh, D.R. - for the respondent

CORAM: **Hon'ble Mr. S.K. Mohanty, Member (Judicial)**

Final Order No. 50118-50119/2018

Per S.K. Mohanty :

These appeals are directed against the impugned order dated 30.11.2012 passed by the Commissioner (Appeals), Central Excise, New Delhi.

2. The brief facts of the case are that an intelligence was received by the department that one Shri Veekay Industries was showing fraudulent purchase of raw material from two dealers viz. Jagdamba Steels and M/s Daga Trading Co. Pvt. Ltd., for availment of inadmissible Cenvat credit. Accordingly, the department proceeded against M/s Veekay Industries for confirmation of the Cenvat

demand and for imposition of penalties on it including the appellants herein. The allegations against the appellants are that they have never purchased raw material from the various suppliers and issued bogus invoices to M/s Veekay Industries for availment of Cenvat credit. Accordingly, after initiation of show cause proceedings, penalty of Rs. One lakh was confirmed on M/s Daga Trading Co. and Rs. 70,000/- on its Director Shri Ramesh Kumar Daga.

3. The ld. Advocate appearing for the appellant submitted that in the capacity of first stage dealer, the appellant M/s Daga Trading Co. had purchased the goods from Rastriya Ispat Nigam Ltd. (RINL) and supplied the same to M/s Veekay Industries on the cover of valid invoices. He also submitted sample copies of delivery challan-cum-invoices issued by M/s RINL in favour of the appellant company, evidencing receipt of the goods in its registered premises. Further, he also produced the transport documents and the affidavit of the transporters, stating that the goods were transported from M/s Daga Trading Co. to M/s Veekay Industries. Thus, he submitted that since the goods were removed by the appellant company under the cover of valid duty paid document, penalties cannot be imposed against them.

4. The ld. DR appearing for the Revenue reiterated the findings recorded in the impugned order.

5. Heard both sides and perused the case records.

6. I find from the reconciliation statement available in the case records that the goods received from Rashtriya Ispat Nigam Ltd. were sold by the appellant company to M/s Veekay Industries under the cover of Central Excise invoices. Further, the transport documents and the affidavit executed by the transporters transpire that the goods were in fact transported to M/s Veekay Industries. Thus, so far as the appellant company M/s Daga Trading Co. is concerned, the allegation cannot be levelled that the goods were not purchased from RINL and supplied to M/s Veekay Industries. Since, the department has not adduced any plausible evidence to substantiate its stand that the appellant did not supply the goods and only issued invoices, facilitating the buyer to avail Cenvat credit, such stand of department cannot be accepted in view of the documents/records submitted by the appellant.

7. Therefore, I do not find any merits in the impugned order. Accordingly, after setting aside the same, I allow the appeals in favour of the appellants.

(Pronounced in Court on 12.1.2018)

(S.K. Mohanty)
Member (Judicial)

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