CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Excise Appeal No. 57453 of 2013

(Arising out of Order-in-Original No. 5/2013(CE) dated 14.02.2013 passed by the Commissioner of Central Excise, Jaipur-I)

DATE OF HEARING : 29.01.2018
DATE OF DECISION : 29.01.2018

M/s Prosafe International Pvt. Ltd. ….. Appellants
(Rep. by Ms. Rinky Arora, Adv.)

VERSUS

CCE, Jaipur-I ….. Respondent
(Rep by Sh. R.K. Mishra, DR)

CORAM : **HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT**
HON'BLE MR. V. PADMANABHAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 50523/2018

PER JUSTICE (Dr.) SATISH CHANDRA :

The present appeal is filed by the assessee-Appellants against the Order-in-Original No. 5/2013(CE) dated 14.02.2013 passed by the Commissioner of Central Excise, Jaipur-I. The period in dispute is 2007-08 to November, 2011.

2. The brief facts of the case are that, during the period under consideration, the assessee-Appellants were engaged in the manufacture of safety shoes, hand gloves and work wears. Hand gloves and work wears are exempted, but the safety shoes are subject to Central Excise Duty. The

assessee-Appellants had taken the Cenvat Credit of the common input services in separate account being maintained. Consequently, in terms of Rule 6(3) of the Cenvat Credit Rules, the assessee-Appellants were required to pay 5% to 10% (depending on the period) of the value of the exempted goods cleared by them. As they did not do so, the impugned order was passed. Being aggrieved, the assessee-Appellants have filed the present appeal.

3. With this background, we have heard Ms. Rinky Arora, learned counsel for the assessee-Appellants and Shri R.K. Mishra, learned DR for the Department.

4. After hearing both sides and on perusal of the material available on record, it appears that the adjudicating authority has clearly recorded that the total Cenvat Credit in respect of common input services taken by them was not reversed and only an amount of Rs. 80,006/- was reversed by them. During the course of arguments, the learned counsel submits that the entire amount was reversed, but the adjudicating authority has not taken any cognizance. When it is so, then we set aside the impugned order and remand the matter to the original authority to decide the issue afresh, but by providing a reasonable opportunity to the assessee-Appellants to present their case with liberty to file additional documents, if any, as per law.

5. In the result, the appeal filed by the assessee-Appellants is allowed by way of remand.

(Dictated & pronounced in the open court)

(JUSTICE DR. SATISH CHANDRA)
PRESIDENT

(V. PADMANABHAN)
MEMBER (TECHNICAL)

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