CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Excise Appeal Nos. 661 & 3209 of 2012

(Arising out of Order-in-Appeal No. 579-CE/MRT-II/2011 dated 21.11.2011 and Order-in-Original No. 20/Commr/M-II/2012 dated 27.07.2012 passed by the Commissioner of Customs & Central Excise Meerut-II and Commissioner (Appeals) Central Excise, Meerut, respectively)

DATE OF HEARING : 21.02.2018
DATE OF DECISION : 21.02.2018

M/s India Glycols Ltd. ..... **Appellants**
(Rep by Sh. Hemant Bajaj, Adv.)

VERSUS

CCE, Meerut-II ….. **Respondent**
(Rep. by Sh. H. Saini, DR)

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

FINAL ORDER NO. 50788-50789/2018

PER JUSTICE (Dr.) SATISH CHANDRA :

Both the present appeals are filed by the assessee-Appellants against the Order-in-Appeal No. 579-CE/MRT-II/2011 dated 21.11.2011 passed by the Commissioner of Customs & Central Excise Meerut-II and Order-in-Original No. 20/Commr/M-II/2012 dated 27.07.2012 passed by the Commissioner (Appeals) Central Excise, Meerut, respectively.

2. Since common issue is involved in both the appeals i.e. duty demand/refund on removal of the scrap under Rule 3(5A) of the Cenvat Credit Rules, 2004, they are disposed of by this common order for the sake of convenience.

3. Heard Shri Hemant Bajaj, learned counsel for the assessee-Appellants and Shri H. Saini, learned DR for the Department.

4. After hearing both sides and on perusal of the material available on record, we find that an identical issue for the earlier period i.e 01.05.2005 to 31.03.2006 has come up for consideration before the Tribunal in the assessee-Appellants' own case [**M/s India Glycols Limited vs CCE, Meerut-II,** Final Order No. 52916/2017 dated 13.04.2017], wherein while remanding the matter, it was observed that :

> **"6. After hearing both the sides and on perusal of record, it appears that no cenvat credit was available on the structural items which was converted after dismantle. To prove this aspect, the appellant has submitted some documents before the Bench. But fact remains that these documents were not available before the adjudicating authority. When it is so, then in the interest of justice, we set-aside the impugned order and remand the matter to the adjudicating authority to examine the documents where it is claimed that no cenvat credit was availed on the structural steel items which was converted into steel in question. The adjudicating authority will decide the issue denovo but by providing an opportunity of hearing to the assessee. Additional evidence, if necessary, may be admitted as per law.**
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> **7. In the result, the appeal filed by the appellant is allowed by way of remand."**

5. By following our earlier order (supra), we set aside both the impugned orders and remand the matter to the adjudicating authority with similar directions (supra).

6. In the result, both the appeals filed by the assessee-Appellants are allowed by way of remand.

(Dictated & pronounced in the open court)

(JUSTICE DR. SATISH CHANDRA)
PRESIDENT

(V. PADMANABHAN)
MEMBER (TECHNICAL)

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