

IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL,
WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-SM

COURT – IV

Excise Appeal No. E/53395-53397/2018 [SM]

[Arising out of Order-in-Original No. 322-324-SM-CE-JPR-2018 dated 13/07/2018 passed by the Commissioner of CGST & Central Excise, Alwar]

**B C Power Control Ltd,
Rajat Jain &
Pankaj Jain**

...Appellants

Vs.

CGST, C & C.E, Alwar

...Respondent

Present for the Appellant : Ms. Rinki Arora, Advocate

Present for the Respondent: Ms. Tamana Alam, AR

Coram: HON'BLE MRS. ARCHANA WADHWA, MEMBER (JUDICIAL)

Date of Hearing/Decision: 28.12.2018

FINAL ORDER No. 53479-53481/2018

PER: ARCHANA WADHWA

All the three appeals are being disposed of by a common order as they arise out of the same impugned order of Commissioner(Appeals) vide which demand stand confirmed against M/s BC Power Control Limited alongwith imposition of penalty. Further penalty stand imposed on the other two appellants who are directors of the Company.

2. As per facts on record, the manufacturing unit is engaged in the manufacture of electric wires and were availing the benefit of cenvat credit on duty paid on various raw materials procured from the dealers. Revenue conducted investigation at the dealers end and entertained a belief that one dealer M/s Unnati Alloys & M/s Moral Alloys had only sent the invoices without sending the inputs in question. During the course of investigation statements of Shri Amit

Gupta, proprietor of M/s Unnati Alloys as also the statement of other transporters were recorded. Based upon the evidences collected during investigations proceedings were initiated against various other manufactures also to whom the said dealer had sent the raw materials. Identical proceedings were initiated against the present appellant resulting in the passing of the impugned orders.

3. Ld. Advocate appearing for the appellant drew my attention to the Tribunal's Order in the case of other assesseees being Final Order No. 51800-51808/2018 wherein the Tribunal set aside the identical Orders passed in the case of the other manufacturers based upon the same set of facts and evidences. Tribunal observed that the entire case of the Revenue is based upon statement of Shri Amit Gupta and other transporters who have not been allowed to be cross examined. It was also observed that Shri Amit Gupta was not made a party to the proceedings. As such Tribunal held that the Revenue had no merits to sustain the demands and accordingly the orders were set aside.

4. Ld. AR appearing for the Revenue, Ms. Tamana Alam fairly agrees that the present case is also based upon the same set of evidences collected during investigation and the facts involved in the present case are *pari materia* to the facts of the earlier decision of the Tribunal.

5. In view of the above, by following the earlier Final order No. 51800-51808/2018, I set aside the present impugned Orders and allow all the three Appeals with consequential benefits.

[Dictated and pronounced in the open Court]

(ARCHANA WADHWA)
MEMBER (JUDICIAL)

D.J.