CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD
Division Bench
Court - I

Appeal No.	Appellant	Respondent	Impugned Order No. & Date
E/30771/2017	Rayalaseema Industries India Pvt. Ltd.	CCCE&ST, Hyderabad-II	O-I-O No. HYD-EXCUS-002-COM-054-16-17,dt. 30.01.2017 passed by CCCE&ST, Hyderabad.
E/30772/2017	Balram Agarwal	.do.	.do.
E/30573/2018	CCT, Ranga Reddy GST	Rayalaseema Steel Re Rolling Mills Pvt. Ltd.	O-I-O No. HYD-EXCUS-004-COM-27-17-18,dt. 22.01.2018 passed by CCT, Ranga Reddy GST Commissionerate.
E/30628/2018	Rayalaseema Steel Re Rolling Mills Pvt. Ltd.	CCT, Ranga Reddy GST	.do.
E/30629/2018	Sri Kanhaiya Agarwal	CCT, Ranga Reddy GST	.do.

Appearance
Shri B. Venu Gopal, advocate for the appellant

Shri V.R. Arun Kumar, Superintendent/AR for the Respondent.

Coram:
Hon'ble Mr. M.V. RAVINDRAN, MEMBER (JUDICIAL)

Hon'ble Mr. P.V. SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing: 18.03.2019
Date of Decision:18.03.2019

FINAL ORDER No. A/30372 – 30376/2019

[Order per: Mr. M.V. Ravindran)

1. When all these appeals were called out, we find that the issue involved in these cases is regarding confirmation of demand of the duty along with interest and reversal of ineligible CENVAT Credit.

2. At the outset, before venturing into merits of the case, learned Counsel submits that the issues involved in these cases are facts based and mostly upon various statements recorded by the authorities. He would submit that the adjudicating authority in all these cases has not followed the law as laid down by Hon'ble High Court of Punjab & Haryana in the case of Jindal Drugs Private Ltd. vs. Union of India [2016(340) ELT 67 (P&H)] as to following the provisions of Section 9D of Central Excise Act, 1944. He would submit that the adjudicating authority having not done so, the impugned orders are liable to be set aside.

3. Learned Departmental Representative submits that in the case of Rayalaseema Industries India Pvt. Ltd., the appellants requested for cross examination of nine persons and these cross examinations were given. It is his submission that in the case of Rayalaseema Steel Re Rolling Mills Limited, although cross examination was requested but nothing is indicated whether they were granted or otherwise.

4. Considering the submissions made by both sides, we find that the adjudicating authority in these cases, prima-facie, to come to a conclusion, relied upon various statements recorded by the investigating authorities. In our view, the law on this point is now settled inasmuch their Lordships in the case of Jindal Drugs Pvt. Ltd. (supra) held that the provisions of Section 9D mandates for relying on a statement, the same should be admitted and subsequently cross examination needs to be granted, their Lordships

judgment is very clear on this law. In these cases, we hold that the adjudicating authority should be given an opportunity to follow the provisions of Section 9D of Central Excise Act, 1944, as has been laid down by Hon'ble High Court of Punjab & Haryana. Accordingly, we set aside the impugned order and remit the matter back to the adjudicating authority to come to a conclusion after following the provisions of Section 9D of Central Excise Act, 1944, keeping in mind the pronounciation of the law involved in the judgment of Hon'ble High Court of Punjab & Haryana.

5. Both sides are at liberty to raise the issue of law and facts before the adjudicating authority, who will follow the principles of natural justice before coming to any conclusion.

6. All the appeals are disposed of by remitting to adjudicating authority, as indicated herein above.

(Dictated and pronounced in open court on 18.03.2019)

(P.VENKATA SUBBA RAO)
MEMBER (TECHNICAL)

(M.V. RAVINDRAN)
MEMBER (JUDICIAL)

vrg