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

Appeal No. E/2004-2005/2010

(Arising out of Order-in-Original No.11/2010-CE-ADJN-HYD-III-COMMR dt.14.06.2010 passed by CCCE & ST, Hyderabad - III)

Kitti Steels Ltd
H S Sethi, Managing Director ….. Appellant(s)

Vs.

CCT, Secunderabad - GST ….. Respondent(s)

Appearance
Shri R. Murlidhar, Advocate for the Appellant.
Shri P.S. Reddy, Dy. Commissioner/AR for the Respondent.

Coram:
HON'BLE Mr. M.V.Ravindran, MEMBER (JUDICIAL)
HON'BLE Mr. P. Venkata Subba Rao, MEMBER (TECHNICAL)

Date of Hearing: 29.03.2019
Date of Decision: 29.03.2019

FINAL ORDER No. A/30443-30444/2019

[Order per: M.V.Ravindran.]

1. These appeals are directed against Order-in-Original No. 11/2010-CE-ADJN-HYD-III-COMMR dated 14.06.2010.

2. Heard both sides and perused the records.

3. The adjudicating authority has come up with the impugned order confirmed the demands raised holding that main appellant herein has availed CENVAT credit without receipt of the materials, and also imposed penalties on other grounds.

4. Learned counsel submits that entire order is based upon various statements recorded for which cross-examination was asked for and was not granted. He would submit that the law is now clear inasmuch, the Hon'ble High Court of Punjab & Haryana in the case of Jindal Drugs Pvt Ltd [2016 (340) ELT 67] has settled that the provisions of Section 9D of the Central Excise Act, 1944 needs to be followed in its letter and spirit before coming to any conclusion.

5. On perusal of the impugned order, we do find it that the entire order is relying upon various statements. Provisions of Section 9D of the Central Excise Act, 1944, is interpreted by the Hon'ble High Court in the case of Jindal Drugs Pvt Ltd, which needs to be followed by the adjudicating authority as per the guidelines laid down in the said judgment. Without expressing any opinion on the merits of the case, leaving all issues open the impugned order is set aside and the appeals are remitted back to adjudicating authority to reconsider the issue as per the directions given by their Lordships in the case of Jindal Drugs Pvt Ltd.

6. The adjudicating authority will follow the principles of natural justice before coming to a conclusion.

7. The appeals stands disposed of by way of remand.

(Dictated and pronounced in the open Court)

(P.VENKATA SUBBA RAO)
MEMBER (TECHNICAL)

(M.V. RAVINDRAN)
MEMBER (JUDICIAL)

Veda