IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
EAST REGIONAL BENCH : KOLKATA

Appeal No. Ex/75648/2017

Arising out of Order-in-Appeal No. 10/KOL-V/2017 dated 30.01.2017 passed by the Commissioner of Central Excise (Appeal-I), Kolkata.

M/s Arora Matthey Ltd.

...APPELLANT(S)

VERSUS

Commissioner of Central Excise, Kolkata-V

...RESPONDENT (S)

APPEARANCE
Shri S. P. Majumder, Advocate for the Appellant (s)
Shri D. Haldar, A.C. (AR) for the Respondent (s)

CORAM:
SHRI P. K. CHOUDHARY, HON'BLE JUDICIAL MEMBER

DATE OF HEARING:-...04.01.2018

DATR OF PRONOUNCEMENT...23.02.2018

ORDER N0. FO/A/75191/2018.

Per Shri P. K. Choudhary :

Briefly stated the facts of the case are that the appellant is engaged in the manufacture of articles of precious metals, Chemical Compound, Gold Compound, Catalyst, Platinum, Palladium etc. classifiable under Chapter 71, 28, 38 etc. of the Central Excise Tariff Act, 1985. The appellant had purchased 275 Nos. of Converter Assly Scrap and availed CENVAT Credit as Input in the manufacture of the final products. A Show Cause Notice dated 05.12.2012 was issued proposing demand of CENVAT Credit along with interest and to impose penalty.

The Adjudicating authority confirmed the demand of CENVAT Credit of Rs.3,39,995/- along with interest and imposed penalty of equal amount of CENVAT Credit. By the impugned Order the Commissioner (Appeals) upheld the Adjudication Order and rejected the appeal filed by the appellant. Hence, this appellant filed the appeal.

2. Heard both the sides and perused the appeal records.

3. I find that the appellant claimed the CENVAT Credit on Converter Assembly Scrap used as Input for the manufacture of final products. The appellant submitted Certificate from the Experts for testifying the recovery of precious metals from the Converter Assembly Scrap. They have also submitted flow chart of the manufacture of precious metals catalyst. The case of the Revenue is that the Audit team when visiting their factory premises had not found such process. In earlier occasion, the Bench directed the Revenue to visit the factory premises of the appellant. The Learned A.R. for the Revenue placed a Report dated 01.11.2017 of the Superintendent of CGST & CX addressed to the Additional Commissioner, Tollygunge Division. It appears from the said letter that the Officers visited the factory premises of the appellant on 27.10.17 for verification of the manufacturing process of the appellant.

4. In my considered view the matter should be examined by the Adjudicating authority on the basis of the Verification Report as produced by the Learned A.R. for the Revenue in the interest of justice.

6. In view of the above discussion, the impugned Order is set aside. The matter is remanded to the Adjudicating Authority to decide afresh after considering the submissions of the appellant and the Reports of the Revenue and to pass Order in accordance with law.

7. The appeal filed by the appellant is allowed by way of remand.

(Pronounced in the open court…23.02.2018.….)

(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

T.K.