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

Appeal No.E/76656/2017

Arising out of Order-in-Appeal No. 44/KOL-V/2017 dated 13.06.2017 passed by the Commissioner of Central Excise (Appeal-I), Kolkata.

M/s Versatile Wires Ltd.

…APPELLANT(S)

VERSUS

Commissioner of Central Excise, Kolkata

….RESPONDENT (S)

APPEARANCE

Shri B. N. Chattopadhyay, Consultant, Advocate for the Appellant (s)

Shri S. Mukhopadhyay, Suptd. (A.R.) for the Respondent (s)

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

Date of hearing/Decision:-16.01.2018

Order No. FO/A/75227/2018

Per Shri P. K. Choudhary :

Briefly stated the facts of the case are that the appellant is engaged in the manufacture of Enamel Copper Winding Wire, Bare Copper Wire and Scraps of Copper falling under Chapter 74 and 85 of Central Excise Tariff Act, 1985. The appellant had purchased goods from M/s Sterlite Industries (I) Ltd. in the course of its business. Subsequently, due to increase in metal prices, M/s Sterlite Industries (I) Ltd. raised supplementary invoices bearing nos. 83 and 91 both dated 30.06.2008 for the differential amount the appellant took CENVAT

Credit of the total amount of Rs.49,011/- on 30.06.2008. It is the case of the department that the invoices were issued on 03.07.2008 and therefore, the appellant had taken credit before issuance of invoice. A Show Cause Notice dated 12.08.2011 was issued proposing recovery of the credit amount so availed alongwith interest and penalty. The demand raised in the Show Cause Notice was confirmed by the adjudicating authority alongwith interest and penalty. The Commissioner (Appeals) upheld the adjudication order. Hence, the present appeal.

2. Heard both sides and perused the appeal records.

3. The Ld. Consultant appearing on behalf of the appellant stated that the supplementary invoices were issued on 30.06.2008 and the appellant had acted correctly in availing credit. He further, submitted that the invoice contained the column 'Date of removal' which was nothing but a clerical mistake and hence, the appellant should not be made liable for such mistake.

4. The Ld. A.R. for the Revenue submitted that the invoices in question were originally dated 03.07.2008 but were later rectified to 30.06.2008 on being pointed out by the audit team while examining

the books of accounts of the appellant. He further submitted that clerical errors on the part of the appellant could not be discounted.

5. I find that the credit was denied on the ground that the date of removal in the Supplementary Invoice was mentioned erroneously. It is seen that the credit was taken on 30.06.2008 and Show Cause Notice was issued after a lapse of three years on 12.08.2011. The appellant rectified the mistakes in the Invoices immediately upon detection by the Audit. The error of the Invoice was rectified and the department has not disputed such rectification. In my considered view, the credit cannot be denied for the reasons of the mistake in the Invoice when it was rectified subsequently. Hence, the impugned Order cannot be sustained. The appeal filed by the appellant is allowed.

(Operative part of the order

already pronounced in the open court.)

(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

T.K.