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

Appeal No. Ex/76080/2017

Arising out of Order-in-Appeal No. 14/SH/CE(A)/GHY/2017 dated 28.03.2017 passed by the Commissioner (Appeals), Customs, Central Excise & Service Tax, Guwahati.

M/s NTL STEELS

…APPELLANT(S)

VERSUS

Commissioner (Appeals), Customs, Central Excise & Service Tax, Guwahati.

…RESPONDENT (S)

APPEARANCE
Shri P. Sikdar, Advocate for the Appellant (s)
Shri K. Chowdhuri, Suptd. (AR) for the Respondent (s)

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

DATE OF HEARING:-…12.02.2018

DATR OF PRONOUNCEMENT…03.04.2018

ORDER N0.FO/A/75779/2018

Per Shri P. K. Choudhary :

Briefly stated the facts of the case are that the appellant is engaged in the manufacture of Iron & Steel products classifiable under Chapter 72 and 73 of the First Schedule to the Central Excise Tariff Act, 1985 as well as Zinc Ash Dross (Chapter 26 of Central Excise Tariff Act, 1985) and availed Area Based Exemption Notification No. 20/2007-CE dated 25.04.2007 by way of refund of duty.

2. The Adjudicating authority held that the appellant is entitled to get the refund of Rs.34,40,991/- in respect of the goods of Chapter 72 and 73 during the year 2015-16. The appellant filed an appeal before the Commissioner (Appeals) for refund of differential amount of Rs.3,97,164/- in respect of goods falling under Chapter 26. By the impugned Order, the Commissioner (Appeal) allowed the refund of Rs.1,51,660/- in terms of Paragraph 4(1) of the said Notification. The appellant filed appeal for refund of Rs.2,45,498/-

3. Heard both sides and perused the appeal records.

4. The Learned D.R. in his Written Submission before the Bench stated that during the hearing, the appellant's Advocate revised the claim of Rs.2,45,498/- to Rs.1,86,590/-. The appellant's claim is that the annual differential refund should be calculated taking all goods together irrespective of their value addition percentage. It is submitted that the Adjudicating authority had not taken into consideration the goods under Chapter 26.

5. I find that the Commissioner (Appeals) re-determined the refund in respect of goods under Chapter 26 of the Central Excise Tariff Act. The relevant portion of the order of the Commissioner (Appeals) is reproduced below:-

6.6. It is evident from the calculation table of the impugned order that total duty liability of the appellant in respect of Chapter 26was Rs.9,49,821/-, out of which an amount of Rs.5,28,526/- has been paid from PLA and remaining amount of Rs.4,21,295/- has been paid by utilizing the CENVAT Credit. The total duty payable on value addition @ 36% comes to Rs.3,41,936/- and which is less than the amount of duty paid through PLA. It is also evident that refund of Rs.1,90,270/- has been sanctioned to the appellant on monthly basis which is found to be less than the amount of duty payable on value addition. Therefore, I am of the considered view that the ld. Adjudicating authority has erred while determining the differential refund in respect of chapter 26 and thus the same is required to be re-determined on the basis of the above particulars".

6. I find that the Commissioner (Appeals) had given detailed reasons with the table of calculation in his order which was not refuted by the appellant. Accordingly, I do not find any reason to interfere with the order of the Commissioner (Appeals). The appeal filed by the appellant is rejected.

(Pronounced in the open court on.03.04.2018)

(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

T.K.