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

Ex.Appeal No.183/08

(Arising out of Order-in-Appeal No.10/RAN/2008 dt.25.01.2008 passed by Commissioner of Central Excise (Appeals) & Service Tax, Ranchi)

CCEx. & S.Tax, Ranchi

Applicant (s)/Appellant (s)

Vs.

M/s SAIL

Respondent (s)

Appearance:

Shri S. Mukhopadhyay, Supdt. (AR) for the Revenue (s)
Shri S. P. Majumder, Adv. for the Respondent (s)

CORAM:

HON'BLE SHRI P. K. CHOUDHARY, JUDICIAL MEMBER
HON'BLE SHRI BIJAY KUMAR, TECHNICAL MEMBER

Date of Hearing : 17.05.2018
Date of Decision : 17.05.2018

ORDER NO…FO/A/76099/2018

Per Shri Bijay Kumar :

Being aggrieved with the order passed by the Commissioner (Appeals), the Revenue has filed this appeal challenging the findings therein.

2. Briefly stated the facts of the case are that the respondent has taken cenvat credit on the various items mentioned in the show-cause notice. It was proposed to recover the credit so availed in terms of Rule 57I of the Schedule. The matter travelled up to the Hon'ble CESTAT in the earlier round of litigation and the Hon'ble CESTAT vide its Order No.A-1151-1153/KOL/2007 dated 14.06.200, set aside the impugned order allowing the appeal by way of remand to the

Commissioner (Appeals) with a direction that the lower appellate authority should consider the submissions and cited case laws in respect of the items for determining eligibility of modvat credit.

3. The ld.Commissioner (Appeals), Ranchi, vide his Order-in-Appeal No.10/RAN/2008 dt.25.01.2008, allowed the appeal with consequential relief as per law, holding no penalty is warranted based on the following decisions :

(i) 1999 (107) E.L.T. 241 (T); Star Paper Mills Ltd. Vs. CCE,

(ii) 1999 (108) E.L.T. 726 (T); CCE VS. TISCO

(iii) 2000 (116) E.L.T 130 (T); SAIL Vs CCE,

(iv) 1996 (86) E.L.T. 613 (T-LB); Union Carbide India Ltd. Vs CC

4. It is the case of the Revenue that the Commissioner (Appeals) has not examined the issue in detail and passed the order holding that the respondent is eligible for modvat credit on the disputed items.

5. The ld.A.R. appearing on behalf of the Revenue reitereated the grounds containing in the appeal memorandum.

6. The ld.Counsel appearing on behalf of the Respondent has stated that the order passed by the ld.Commissioner (Appeals) is correct in view of the various decisions, which are as under :

(i) Commissioner of Central Excise, Chennai Vs. Visveswaraya Iron & Steel Ltd. reported in 2005 (192) E.L.T. 703 (Tri.-Bang.) ;

(ii) Commr. of Central Excise, Meerut Vs. Bajaj Hindustan Ltd. reported in 2017 (49) STR 601 (Tri.-Del.) ;

(iii) Union Carbide India Ltd. Vs. Collector of Central Excise, Calcutta-I reported in 1996 (86) E.L.T. 613 (Tribunal) ;

***Ex.Appeal No.* 183/08**

(iv) Star Paper Mills Ltd. Vs. Collector of Central Excise, Meerut reported in 1999 (107) E.L.T. 241 (Tribunal) ;

(v) Commissioner of Central Excise, Mysore Vs. ICL Sugars ltd. Reported in 2011 (271) E.L.T. 360 (Kar.) ;

(vi) Tamil Nadu Newsprints & Paper Ltd. Vs. CCEx., Tiruchirapalli : 2017 (357) ELT 60 (Mad.).

7. We have heard both sides and considered the case records. The issue is regarding the availment of modvat credit on Calcium Carbide, Welding Electrode, H.R.Sheets, Donomite Sheets, Measuring Instruments, PVC Caps, Aqua Sets and Bottan Plates etc. After perusing the case records and additional submissions made before us by the various judgements, we find that the issue is settled in favour of the respondent and we do not intend to interfere with the findings therein.

8. In the result, the appeal filed by the Revenue is dismissed.

(Operative part of the Order was pronounced in the open Court.)

Sd/
(P. K. CHOWDHARY)
MEMBER (JUDICIAL)

Sd/
(BIJAY KUMAR)
MEMBER (TECHNICAL)

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