IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH: KOLKATA

Appeal No. E/856/2011

(Arising out of Order-in-Appeal No. 204/Kol-III/2011 dated 30.06.2011 passed by the Commissioner of Central Excise, (Appeal-I), Kolkata.

M/s. Siemens Public Communication Networks (P) Ltd.
Appellant (s)

Vs.

CCE-Kol-III Respondent (S)

Appearance:
Ms. Ayushi Fatehpuria, (ACA) for the Appellant (s)
Shri D. Haldar, A. C. (A. R.) for the Revenue

CORAM:
HON'BLE SHRI P.K.CHOUDHARY, MEMBER (JUDICIAL)
Date of Hearing: -23.05.2018
Order No. FO/76575/2018

PER SHRI P.K.CHOUDHARY

Briefly stated the facts of the case are that the appellant is engaged in the manufacture of various telecommunication apparatus classifiable under Chapter 85 of the First Schedule to the Central Excise Tariff Act, 1985. A Show Cause Notice dated 21/02/2007 was issued for the period February 2006 to March 2006. It was alleged that the invoices were issued in the name of the appellant but the same were not received at the appellant's premises in Kolkata and accordingly, it was held that the documents on the strength of which credit was taken, were not valid documents for availing CENVAT Credit.

2. The Adjudicating Authority confirmed the demand along with interest and also imposed equal penalty under Rule 15 of the CENVAT Credit Rules, 2004.

3. On appeal, the Ld. Commissioner (Appeals) up-held the Adjudication Order and rejected the appeal. Hence, the present appeal before the Tribunal.

4. The Ld. Consultant appearing on behalf of the Appellant Company filed a letter from the Company "Geneva Finepunch Enclosures Ltd. Bangalore," mentioning that the address on the invoices was wrongly mentioned i.e. Siemens Public Communication Networks Pvt. Ltd. C/O Geologistics Pvt. Ltd, Jayshree Tea Shop, M-Govindpur, Budge Budge Trunk Rd, Kolkata-700041 shall be read as Siemens Public Communication Networks Pvt Ltd. Block GP, Plot G, Sector V, Saltlec Electronics Complex, Bidhannagar, Kolkata-700091. She also filed copies of all the invoices before the Bench.

5. The Ld. DR reiterates the orders of the Lower Authorities.

6. Heard both sides and perused the appeal records.

7. It is the case of the appellants that the Adjudicating Authority has not considered their submissions and has also not considered the various decisions placed before him.

8. In view of the above discussions, it is my considered view that the matter should be remanded to the Adjudicating Authority to consider the submissions, documents and the judicial decisions

on this issue. Since the matter is very old pertaining to the period 2006, the Adjudicating Authority is directed to pass the order within 3 months from the date of receipt of this order in accordance with law.

9. The appeal is allowed by way of remand.

(Operative part of the order was pronounced in the open court.)

Sd/-
(P.K. Choudhary)
Member (Judicial)

Pooja