IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

REGIONAL BENCH – COURT NO.1

S. Tax Appeal No. 77372 of 2018

Arising out of Order-in-Appeal No.64/ST/RKL-GST/2018 dated 26.03.2018 passed by Commissioner (Appeals), GST, CX & Customs, Bhubaneswar.

M/s. Essel Mining & Industries Ltd.
At/Po/-Barbil, Distt.-Keonjhar, Odisha-758035

Appellant (s)

VERSUS

Commr. of CGST & CX, BBSR
C. R. Building Rajaswa Vihar,
Bhubaneswar, Odisha-751007

Respondent (s)

APPERANCE :

Shri N. K. Dash, Advocate for the Appellant
Shri S. Mukhopadhyay, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. P.K.CHOUDHARY, MEMBER (JUDICIAL)

ORDER NO.FO/76204/2019

Date of Hearing : 13.09.2019
Date of Decision : 13.09.2019

PER P.K.CHOUDHARY :

Heard both sides and perused the appeal records.

2. I find that the Ld. Commissioner (Appeals) in the impugned order has observed that the appellant has not submitted the invoices duly certified by the Chartered Accountant which is mandatory for claiming of refund amount of Rs.90,104/-, as per the Notification.

3. It is the submission of the Ld. Advocate that the appellant had submitted the duplicate invoices duly certified by the Chartered Accountant at the time of filing of Original refund claim. Subsequently, the appellant had submitted self certified original invoices along with reply to the Show Cause Notice.

4. I find that the issue pertains to refund of Service Tax paid on various services utilized by the appellant for the purpose of exports in

terms of Notification No.41/2007-ST dated 06/10/2007. Lower Authorities have not disputed the fact of admissibility, but has rejected refund claim on the ground that Notification requires submission of original invoices, duly certified. I also find from the records that the appellant has not separately certified each and every invoice but has given a consolidated certificate from their Charter Accountant having details of each invoice, the same does not fulfill the requirement of the Notification. Accordingly, the refund claims were denied.

5. The Ld. Advocate submits that in the consolidated certificate given by the Charter Accountant, there is a reference to each and every invoice involved in the appeal. As such, it has to be stated that every invoice has been certified. Accordingly, notification condition stands fully satisfied.

6. The Ld. DR appearing for the Revenue submits that in some of the cases the original invoices have not been submitted at the time of making the refund claim and there is no certification in respect of the invoices.

7. After appreciating the submissions made by both the sides, I find no merits in the objection raised by the Lower Authorities. The intention and idea in getting every invoice certified is to establish that such services were used by the assessee for export purposes and in fact stands paid for by them. Instead of certifying each and every invoice individually and separately, if a consolidated certificate giving details of the invoices, stand given by the assessee, the same would fulfill the notification criteria. As such I am of the view that the said objection of the Revenue is unsustainable.

8. In view of the foregoing analysis, I set aside the impugned order and allow the appeal with consequential relief to the appellant.

Sd/-

(P. K. Choudhary)
Member (Judicial)

Pooja