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

REGIONAL BENCH - COURT NO.2

Excise Appeal No.79630 of 2018

(Arising out of Order-in-Appeal No.05/HWH/CE/2018-19 dated 16.04.2018 passed by Commissioner of CGST & Central Excise(Appeals-II), Kolkata.)

M/s. Chandi Steel Industries Limited
(16, Belur Road, Liluah, Howrah-711204 (W.B.).)

...Appellant

VERSUS

Commissioner of CGST & CX, Howrah Commissionerate
.....Respondent
(15/1, Strand Road, Customs House, Kolkata-700001.)

APPEARANCE

Shri S.Mohapatra, General Manager (Taxation) for the Appellant (s)
Shri S.Mukhopadhyay, Authorized Representative for the Respondent (s)

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

FINAL ORDER NO. 75311/2021

DATE OF HEARING : 23 March 2021
DATE OF DECISION : 16 June 2021

P.K.CHOUDHARY :

The present appeal has been filed by the assessee, M/s. Chandi Steel Industries Limited, against Order-in-Appeal dated 16.04.2018 passed by the learned Commissioner (Appeals), Kolkata, whereby the demand of central excise duty of Rs. 3,39,368/- alongwith interest and penalty has been upheld for the period 2013-14. The said demand arises vide Order-in-Original dated 19.12.2016 passed by the Asst. Commissioner, Central Excise, Howrah, consequent to disallowance of CENVAT Credit of input services availed by the assessee during the aforesaid period, which is being assailed in the present appeal.

2. The appellant is engaged in the manufacture of various excisable goods on which central excise duty is being paid. During the impugned

period, the appellant availed credit on input services on the strength of documents which did not bear the address of the appellant and the service tax registration number of the service providers. For the said deficiency, the credit has been disallowed by both the authorities below. The appellant produced a certificate dated 09.02.2018 from the Bank showing the service tax amount paid on banking services which has been recovered by the Bank by way of debit from the appellant's bank account. The said certificate also mentions the service tax registration number of the Bank branch. In the course of adjudication and first appeal, the appellant has all along been contending that the receipt of services and payment of tax thereon is not in dispute. However, the credit has been denied due to deficiency in the document inasmuch as all the particulars as required in the Rules are not mentioned on the said document. It is the submission of the appellant that credit should not be denied merely for procedural and technical irregularities.

3. Shri S. Mahapatra, learned General Manager (Taxation) appeared for the appellant and Shri S. Mukhopadhyay, learned Authorized Representative appeared for the Department.

4. Heard both sides through video conference and perused the records.

5. The only dispute in this appeal is with regard to entitlement of the appellant to avail credit. It is the contention of the Department that the appellant is not entitled to avail credit because the document on the strength of which credit has been availed is not proper. However, I find that there is no finding in the adjudication order and the appeal order that the input service has neither been received by the appellant nor tax has not been paid on said services. Therefore, the dispute only lies within the narrow encompass of the acceptance of the document on the strength of which credit has to be extended to the appellant. I have perused the certificate dated 09.02.2018 issued by the Federal

Bank, which duly mentions the service tax amount recovered from the appellant and the service tax registration number of the bank branch. Since there is no dispute with regard to the nature of input services, I am of the view that the appellant should not be deprived of the Cenvat Credit which is available under the CENVAT Credit Rules framed as a beneficial scheme of the Central Excise statute. I am of the view that justice would be served if the appellant is accorded an opportunity to produce the said certificate before the adjudicating authority, who would examine the same and satisfy itself in so far credit amount is involved in the present dispute and undertake necessary computation if required. On receipt of this order, the appellant shall produce a copy thereof alongwith other relevant documents to the adjudicating authority who shall pass the de-novo order within three months thereof.

The appeal is thus allowed by way of remand in the manner stated above.

(Order pronounced in the open court on 16 June 2021.)

SD/

(P.K.CHOUDHARY)

MEMBER (JUDICIAL)

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