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

REGIONAL BENCH – COURT NO.2

Excise Appeal No.77342 of 2018

(Arising out of Order-in-Appeal No.61/Kol.V/2018 dated 09.04.2018 passed by Commissioner (Appeals) of CGST & Excise, Kolkata

M/s Aar Bee Machineries Private Limited
Boral Main Road, Joinpur, Banhoogly, Dakshin Jagadal, Dist.-24 Parganas (South), Pin 700151

Appellant

VERSUS

Commissioner of CGST & Excise, Kolkata South
180, Shantipally, Rajdanga Main Road, Kolkata-700107

Respondent

APPERANCE :

Shri Aditya Dutta, Advocate for the Appellant
Shri J.Chattopadhyay, Authorized Representative for the Respondent

CORAM:

HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)

FINAL ORDER NO…75054/2023

DATE OF HEARING : 10 .02.2023
DATE OF DECISION : 10 .02.2023

Per Ashok Jindal :

The appellant is in appeal against the impugned order wherein the cenvat credit on M.S.Plates received by them as consignee, was denied on the ground that the buyer of the said goods is M/s Ganesh Trading Agency as per the invoice issued by M/s Roshanlal Bhagarathimal. On this premises, as the appellant was not the buyer, the appellant is not entitled to take credit on the same. Accordingly, proceedings were initiated against the appellant by issuing the show-cause notice. Later on, the same was adjudicated for demand and an appeal is also against such demand. Being aggrieved, the appellant is before me.

2. The Ld.Counsel for the appellant, submits that as per CBEC Circular No.1003/10/2015-CX dated 05.05.2015, a clarification has

been issued for taking credit on the invoices issued in the name of the buyer, who is un-registered, the consignee. The goods is entitled to take the credit. Therefore, he submits that the impugned order is to be set aside.

3. On the other hand, the ld.Authorised Representative for the Revenue, reiterates the findings of the lower authorities.

4. Heard both sides and considered the submissions.

5. On careful consideration of the submissions made from both the parties, I find that the issue is squarely covered by the CBEC Circular No.1003/10/2015-CX dated 05.05.2015, wherein it has been clarified that although the invoice is issued in the name of the buyer, but the assessee as a consignee, who is registered with the Central Excise Department, is entitled to take the cenvat credit. Therefore, the issue is no more res-integra. Therefore, I hold that the appellant is entitled to take cenvat credit in question.

6. In view of this, the impugned order is set aside and the appeal is allowed with consequential relief, if any.

(Dictated and pronounced in the open court)

Sd/-
(Ashok Jindal)
Member (Judicial)

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