

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

REGIONAL BENCH – COURT NO.2

Excise Appeal No.335 of 2009

(Arising out of Order-in-Original No.43/Commr./Bol/09 dated 25.02.2009 passed by Commissioner of Central Excise, Bolpur)

M/s Maheshwari Ispat Limited

Vill.-Beldanga, Post-Chhtoramchandrapur,P.S.-Kanksa,Dist.-Burdwan, West Bengal

Appellant

VERSUS

Commissioner of Central Excise, Bolpur

Nanoor Chandidas Road, SIAN,Bolpur, Dist.-Birbhum, Pin-731204

Respondent

APPERANCE :

None for the Appellant

Shri S.Mukhopadhyay, Authorized Representative for the Respondent

CORAM:

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

HON'BLE MR.K.ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.....75538/2023

DATE OF HEARING : 01 .06.2023

DATE OF DECISION : 01 .06.2023

Per Ashok Jindal :

The appellant is in appeal against the impugned order wherein the demand of cenvat credit has been confirmed along with interest and an equal amount of penalty has been imposed.

2. The facts of the case are that the appellant is having two Units, one is at Cuttackm Orissa and another Unit is at Panagarh, West Bengal. Both the units are manufacturing the identical goods, i.e. steel billets.

2.1 It is claimed by the appellants that they manufactured the final product in their Cuttack Unit and transported to Panagarh Unit for

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storage before sale. The difference between the two places is 100 km. The Panagarh Unit taken the credit of duty paid by the Cuttack Unit and utilized the credit either paying duty on goods manufactured by the Panagarh Unit or in respect of goods received from Cuttack Unit sold by them during the period December, 2006 to April, 2007.

2.2 Revenue is of the view that the Panagarh Unit has not taken any activity of processing of the said goods. Therefore, on the said finished goods, the Panagarh Unit was not entitled to take cenvat credit.

2.3 Therefore, a show-cause notice was issued to demand to the reversal of cenvat credit taken by the Panagarh Unit on the goods transferred by the Cuttack Unit.

2.4 The matter was adjudicated. The demand on account of reversal of cenvat credit was confirmed.

2.5 Against the said order, the appellant is before us.

3. None appeared on behalf of the appellant.

4. We find that the appeal itself can be disposed off at this stage. Therefore, we have taken up the appeal for final disposal.

5. We find that in this case, it is very much clear that the goods on which the appellant has taken the cenvat credit, have been cleared on payment of duty and although there is no manufacturing process undertaken, the goods have been cleared on payment of duty.

6. In that circumstances, we hold that the appellant is entitled to take the cenvat credit on the goods cleared from the Cuttack Unit to the Panagarh Unit.

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7. Therefore, we hold that the proceedings against the appellant are not sustainable as the appellant has suffered duty on the goods for which they have taken cenvat credit. Therefore, we do not find any merit in the impugned order. Accordingly, the same is set aside.

8. In the result, the appeal is allowed with consequential relief, if any.

(Dictated and pronounced in the open court)

Sd/-
(Ashok Jindal)
Member (Judicial)

Sd/-
(K.Anpazhakan)
Member (Technical)

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