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

REGIONAL BENCH – COURT NO.2

Excise Appeal No.76831 of 2017
Excise Appeal No.76832 of 2017
Excise Appeal No.76833 of 2017

(Arising out of Order-in-Appeal No.55-57/Kol.V/2017 dated 16.06.2017 passed by Commissioner (Appeals) of Central Excise, Kolkata)

M/s Versatile Wires Ltd.
Shri Amitava Sen, Sr.Manager (Operation)
Shri Kalayan Mal Modi, Manager (Commercial)
Bakrahat Road,P.O.-Rasapunja, Bishnupur, Dist.-24 Parganas (South), W.B.

Appellant

VERSUS

Commissioner of Central Excise, Kolkata V
180, Shantipally, Rajdanga Main Road, Kolkata-700107

Respondent

APPERANCE :

Shri N.K.Chowdhury, Advocate for the Appellant
Shri P.K.Ghosh, Authorized Representative for the Respondent

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

FINAL ORDER NO…75635-75637/2023

DATE OF HEARING : 07.06.2023
DATE OF DECISION : 07.06.2023

Per Ashok Jindal :

The appellants are in appeal against the impugned order.

2. The facts of the case are that the appellants are engaged in the manufacture of enameled copper, winding wire, bare copper wire and waste and scrap of copper.

2.1 On 09.02.2007, the stock verification was done on the premises of the appellants. Certain goods were found excess and there was certain shortages of finished goods as well as waste and scrap, on which the appellant has availed cenvat credit.

2.2 The case was booked against the appellant alleging shortage of finished goods involved in the activity of clandestine removal of goods without payment of duty or availing cenvat credit without receiving inputs in that factory.

2.3 The matter was contested with various financial statements, Chartered Accountant's Certificate, Books of Account before the adjudicating authority as well as the ld.Commissioner (Appeals), but without considering the same, the impugned order has been passed demanding duty from the appellant on account of clandestine removal of goods and penalty was imposed on all the appellants.

2.4 Against the said order, the appellants are before me.

3. Heard the parties and perused the records.

4. On perusal of records, I find that the appellants have produced the Chartered Accountant's Certificate with regard to allegation of shortfall in manufactured stock as per financial records comparing with Daily Stock Account. The said Chartered Accountant's Certificate has not been considered by the authorities below and did not find out from the record that the defense taken by the appellant produced by way of Chartered Accountant's Certificate, is not acceptable. The ld.Counsel for the appellant submits that in regard to other issues, no finding has been given by the authorities below.

5. In view of the above, the matter is required to be go back to the adjudicating authority for deno adjudication to pass an appropriate order after considering all the defense taken by the appellants in their defense reply and to call for records (if require for verification thereof).

6. In view of this, all the appeals are allowed by way of remand by setting aside the impugned order.

7. The Adjudicating Authority is directed to pass the order in accordance with law within 90 days from the date of receipt of this order.

(Dictated and pronounced in the open court)

Sd/-
(Ashok Jindal)
Member (Judicial)

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