IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH - COURT NO.1

Excise Appeal No.499 of 2012

(Arising out of Order-in-Original No.15/Commissioner/CE/Haldia/Adjn/2012 dated 27.03.2012 passed by Commissioner of Central Excise, Haldia Commissionerate, Kolkata.)

M/s. Ramsarup Loha Udyog,
Unit of Ramsarup Industries Limited
(Tata Melaliks Road, Sahachak, P.O. Rakajunge, Kharagpur, Dist. West Midnapur, West Bengal, Pin-721301.)

...Appellant

VERSUS

Commissioner of Central Excise, Haldia

.....Respondent

(15/1, Strand Road, Custom House, M.S. Building, Kolkata-700001.)

APPEARANCE

NONE for the Appellant (s)
Shri A.Roy, Authorized Representative for the Revenue

CORAM: HON'BLE SHRI ASHOK JINDAL, MEMBER(JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER(TECHNICAL)

FINAL ORDER NO. 75680/2023

DATE OF HEARING : 13 June 2023
DATE OF DECISION : 13 June 2023

Per : ASHOK JINDAL :

The Appellant is in Appeal against the impugned order, wherein CENVAT Credit taken by the Appellant on capital goods to the extent of 100% was denied.

2. The facts of the case are that the Appellant is manufacture of pig iron and procured certain capital goods during the period April 2007 to December 2007 and availed CENVAT Credit @ 100% of the CENVAT Credit involved. In terms of the Rule 4(2)(a) and 4(2)(b) of CENVAT Credit Rules, 2004, the Appellant was entitled to take CENVAT Credit to the extent of 50% in the financial year when the capital goods were procured and remaining 50% is entitled in the next financial year. Therefore, a Show Cause Notice was issued for recovery of the excess CENVAT Credit taken by the Appellant and to impose penalty on the

Appellant. The matter was adjudicated, demand for recovery of excess CENVAT Credit taken by the Appellant to the extent of 50% is confirmed along with interest and penalty under Rule 15(2) of CENVAT Credit Rules, 2004 read with Section 11AC of the Central Excise Act, 1944 was imposed. Against the said order, the Appellant is before us.

3. None appeared on behalf of the Appellant, nor any request for adjournment has been received. We find that this Appeal pertains to the year 2012 and can be disposed of stage, therefore, the Appeal is taken up for disposal.

4. We find that although the Appellant has taken CENVAT Credit in contravention of provisions of Rules 4(2)(a) and 4(2)(b) of CENVAT Credit Rules, 2004, whereas they have taken CENVAT Credit @ 100% on the capital goods, but they are entitled for 50% of the CENVAT Credit in the year when they have procured the capital goods. Whereas in the next financial year, they are entitled to claim balance 50% of the CENVAT Credit of the capital goods. In that circumstances, at the most the Appellant is liable to pay interest for the intervening period where they have taken excess CENVAT Credit on the capital goods which was ultimately available to them on 1st April 2008.

5. In that circumstances, we set aside the impugned demand confirmed against the Appellant and drop the penalties on the Appellant, but we confirm the demand of interest on excess CENVAT Credit availed from the date of CENVAT Credit taken till 1st April 2008.

6. In these terms, the Appeal is disposed of by modifying the impugned order.

(Operative part of the order was pronounced in the open Court.)

Sd/
(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

sm