

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

REGIONAL BENCH – COURT NO.2

**Excise Appeal No. 77838 of 2018**

(Arising out of Order-in-Appeal No.44/Kol-V/2018 Dated 22.03.2018 passed by  
Commissioner of CGST & CX (Appeal-I), Kolkata)

**M/s. Geomatrix Instruments, Unit-I**  
(Shed B-3, Baruipur Industrial Estate, W. B.-743387)

**Appellant**

*VERSUS*

**Commissioner of CGST & Central Excise, Kolkata South  
Commissionerate**  
(180, Shantipally, Rajdanga Main Road, Kolkata-700107)

**Respondent**

**APPEARANCE :**

None for the Appellant

Mr. S. S. Chattopadhyay, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)**

**FINAL ORDER NO.75713/2023**

Date of Hearing : 15 June 2023

Date of Decision : 15 June 2023

**PER R. MURALIDHAR**

No one has appeared on behalf of the Appellant inspite of notice.

2. It is seen from the records that the Appellant has not been presenting himself for the hearing inspite of regular notice.

3. Therefore, perused the Appeal papers and other documents with the help of Learned AR.

4. It is seen from the proceedings taken up against the Appellant that the Cenvat Credit was denied to them on the ground that they have procured the goods from the vendor who has issued invoices where the Appellant is mentioned as consignee and the dealer of the vendor is shown as buyer. Therefore, the Department has taken the view that the Appellant is not the buyer of the goods and accordingly, Cenvat Credit cannot be allowed. Being aggrieved by the OIA, the Appellant is before the Tribunal. After going through the Invoice copies filed by the Appellant, it is seen that the vendor has mentioned the

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name of the Appellant as receiver of the goods (consignee). They are showing the details of the Dealer as the buyers of the goods. In this case, it is not disputed by the Department that the Appellant has not received the goods or used the goods in their factory premises. There is also no allegation that the Appellant has not made the payment towards these invoices, wherein the details of value of goods, Excise Duty etc. are clearly indicated.

5. The CBIC has issued Circular No. 1003/10/2015-CX dated 05/05/2015, wherein it is clarified that when goods are directly sent to the consignee based on the direction of the dealer of the manufacturer, the Cenvat Credit can be allowed to the person who is receiving the goods so long he is able to show the receipt of the same and usage in the dutiable products.

6. Coming to the factual matrix of the case, there is no dispute that the Appellant has physically received these goods and used the same in their manufacturing process. In similar matters, the Tribunals have been holding that the assessee is eligible to take the Cenvat Credit.

7. Accordingly, the present Appeal stands allowed with consequential relief, if any, as per law.

(Dictated and pronounced in the open court.)

Sd/-

**(R. Muralidhar)**  
**Member (Judicial)**

Pooja