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

REGIONAL BENCH – COURT NO.2

Excise Appeal No. 680 of 2011

(Arising out of Order-in-Appeal No. 46/Kol-IV/11 dated 18.05.2011 passed by Commissioner of Central Excise (Appeals), Kolkata-IV.)

M/s Super Forging & Steels Ltd,
Dankuni Unit, P.O.- Dankuni, Hooghly,

...Appellant

VERSUS

Commissioner of CGST & Central Excise, Kolkata-IV,
180, Shantipally, Rajdanga, Main Road, 6th Floor, Kolkata-700107.

.. ...**Respondent**

APPERANCE :

Shri H. K. Pandey & Shri T. K. Mitra, both Advocates for the Appellant
Shri S. Mukhopadhyay, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. R. MURALIDHAR MEMBER (JUDICIAL)
HON'BLE MR. K. ANPAZHAKAN MEMBER (TECHNICAL)

Final Order No...77720/2023

DATE OF HEARING : 13.12.2023
DATE OF DECISION : 13.12.2023

PER BENCH :

The appellant submits that the issue pertains to clearing of the finished goods to their own unit on payment of Excise Duty, which the department claimed was not based on correct valuation. The demand was made for Rs.29,33,166 and the same was confirmed by the Adjudicating Authority.

2. The appellant submits that they had paid Rs.16,60,354/- through supplementary invoices during the same period which was not considered by the Adjudicating Authority while passing the Order-in-Original.

3. On appeal, the Commissioner (Appeals) has dismissed the Appeal on the ground that appellant has not complied with pre-deposit condition without going into the merits of the case.

4. In the denovo proceeding, the appellant has contested the entire demanded amount of Rs.29,33,166 and has given details of Rs.16,60,354/-

paid by them and taken as CENVAT Credit by the recipient unit. They have also contested the issue pertaining to the balance amount.

5. During the period under litigation, pre-deposit to be made was as per the discretionary powers of the Commissioner (Appeals). Therefore, we hold that the appellants payment of Rs.16,60,304/- is to be taken as pre-deposit and the Appeal is required to be reheard by the Commissioner (Appeals).

6. Therefore, we remand the matter to the Commissioner (Appeals). He is required to go through the documentary evidence and the statutory provisions and follow the principles of natural justice in deciding the matter.

7. The Appeal is disposed of the above terms.

(Dictated and pronounced in the open court)

(R. Muralidhar)
Member (Judicial)

(K. Anpazhakan)
Member (Technical)

T.K.