

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA**

REGIONAL BENCH - COURT NO.2

Excise Appeal No.75679 of 2019

(Arising out of Order-in-Appeal No.542/JSR/2018 dated 17.12.2018 passed by Commissioner(Appeals), CGST & CX, Ranchi.)

M/s. Bihar Sponge Iron Limited

(Umesh Nagar, Manikui, Chandil, Distt. Saraikela Kharsawan, Jharkhand-832401.)

...Appellant

VERSUS

Commissioner of CGST & CX, Jamshedpur Commissionerate

.....Respondent

(Outer Circle Road, Bistupur, Jamshedpur, Jharkhand.)

APPEARANCE

Shri Rajesh Chibber, Advocate for the Appellant (s)

Shri S.S.Chattopadhyay, Authorized Representative for the Revenue

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

FINAL ORDER NO. 75027/2024

DATE OF HEARING : 11 January 2024

DATE OF DECISION : 11 January 2024

K. ANPAZHAKAN :

The present appeal has been filed against the impugned order dated 17.12.2018, wherein the Ld.Commissioner(Appeals) upheld the denial of Cenvat Credit availed BY THE appellant beyond the period of six months prescribed under Notification No.21/2014 dated 11.07.2014.

2. The facts of the case are that the appellant has availed Cenvat Credit based on supplementary invoices issued by the supplier M/s. Coal India Limited in the month of March and April 2013. The credit on the basis of these supplementary invoices were availed by the appellant in the month of December 2014. The department contended that as per Notification No.21/2014 dated 11.07.2014, the appellant has to avail the credit within a period of six months from the date of issue of

invoices. As the credit was availed beyond the period of six months prescribed under the said Notification, the credit was denied to the appellant.

3. In their grounds of appeal the Counsel for the appellant submits that the issue is no more *res integra* as various Tribunals have categorically held that six months' time limit prescribed under Notification No.21/2014 dated 11.07.2014 would not be applicable for the invoices issued prior to 11.07.2014. Accordingly, he prayed for allowing their appeal.

4. The Ld. Authorized Representative for the department reiterated the findings in the impugned order.

5. I find that there is no dispute regarding the payment of duty and receipt of the inputs by the appellant in their factory. The only issue to be decided here is whether the appellant is eligible to avail the Cenvat Credit in December 2014, on the basis of the invoices issued in the month of March and April 2013, which is beyond a period of six months prescribed under Notification No.21/2014 dated 11.07.2014.

6. I find that the issue is no longer *res integra*, as the same issue has already been decided by the Tribunal in the case of Voss Exotech Automotive Pvt.Ltd. vs. Commissioner of C.Ex., Pune-I [2018 (363) E.L.T. 1141 (Tri.-Mumbai)]. The relevant paragraph of the said decision is reproduced below:-

"4. On careful consideration of the submissions made by both the sides, I find that for denial of the credit, the Notification No. 21/2014-C.E. (N.T.), dated 11-7-2014 was invoked wherein six months period is available for taking credit. As per the facts of the case credit was taken in respect of the invoices issued in the month of March & April 2014 in November 2014. On going through the Notification No. 6/2015-C.E. (N.T.), dated 1-3-2015 the period available for taking credit is 1 year in terms of the notification, the invoices issued in the month of March and April 2014 become eligible for Cenvat credit. I also observed that the Notification No. 21/2014-S.T. (N.T.), dated 11-7-2014 should be applicable to those cases wherein the invoices were issued on or after 11-7-2014 for the reason that notification was not

applicable to the invoices issued prior to the date of notification therefore at the time of issuance of the invoices no time limit was prescribed. Therefore in respect of those invoices the limitation of six months cannot be made applicable. Moreover for taking credit there is no statutory records prescribed the assessee's records were considered as account for Cenvat credit. Even though the credit was not entered in so-called RG-23A, Part-II, but it is recorded in the books of accounts, it will be considered as Cenvat credit was recorded. On this ground also it can be said that there is no delay in taking the credit. As per my above discussion, the appellant is entitled for the Cenvat credit hence the impugned order is set aside. The appeal is allowed."

7. I find that this decision has been followed in various other decisions of the Tribunals, some of which are mentioned below:-

- (a) Indian Potash Ltd. vs. Commissioner of CGST, Meerut
[2019 (369) E.L.T. 742 (Tri.-All.)]
- (b) Essel Propack Ltd. vs. Commissioner of C.Ex. & S.T., Daman
[2022 (379) E.L.T. 123 (Tri.-Ahmd.)]

8. Following the ratio of the decisions cited above, I hold that the time limit of six months prescribed under Notification No.21/2014 dated 11.07.2014 is applicable only in respect of the invoices issued after 11.07.2014. As the invoices in this case were issued prior to this date, the time limit of six months is not applicable. Accordingly, I hold that the appellant is eligible for the Cenvat Credit availed based on the invoices issued in the month of March and April 2013, which is beyond a period of six months prescribed under Notification No.21/2014 dated 11.07.2014.

9. In view of the above discussion, I set aside the impugned order and allow the appeal filed by the appellant.

(Dictated and pronounced in the open Court.)

Sd/
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)