IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI
COURT NO.

Appeal No. E/45 & 46/2010

(Arising out of Order-in-Appeal No. AGS(205-206)73,90/09 dtd.08.09.2009 passed by the Commissioner (Appeals) Central Excise & Customs, Aurangabad)

M/s. Gal Aluminium Extrusions Pvt. Ltd. : **Appellant**

VS

Commissioner of Central Excise & Customs, Aurangabad. : **Respondent**

Appearance

Shri S.B. Awate, Consultant for Appellant

Shri A.B. Kulgod, Asstt.Commr. (A.R) for respondent

CORAM:

Hon'ble Dr. D.M. Misra, Member (Judicial)
Hon'ble Mr. Sanjiv Srivastava, Member (Technical)

Date of hearing : 16/07/2018
Date of decision : 16/07/2018

ORDER NO. A/86941-86942/2018

Per : Dr. D.M. Misra

Heard both sides.

2. This is an appeal filed against Order-in-Appeal No. AGS(205-206)73,90/09 dtd.08.09.2009 passed by the Commissioner (Appeals) Central Excise & Customs, Aurangabad.

3. Briefly stated the facts of the case are that the appellant during the period 10.05.2008 to 31.12.2008 had cleared Aluminum

Extruded profiles to one M/s. Manjari Stud Farm Pvt. Ltd., a developer of SEZ under SEZ Act, 2005. The appellant had availed cenvat credit of Rs.4,07,864/- on the inputs used in the manufacture of the said finished goods cleared to SEZ. Demand notice was issued to them on 17.2.2009 alleging that the appellants are not eligible to avail credit on inputs as the clearances to developer of SEZ is not covered under the provisions of Rule 6(6) of Cenvat Credit Rules 2004, for recovery of the said credit with interest and penalty. On adjudication, the demand was confirmed with interest and penalty. Aggrieved by the said order, they filed an appeal before the Commissioner (Appeals), who in turn, rejected their appeals. Hence, the present appeals.

4. Ld. Advocate submits that the issue of admissibility of cenvat credit on the inputs used in the manufacture of finished goods cleared to a developer in SEZ, is no more *rest integara* being covered by the judgment of this Tribunal in the case of *Sujana Metal Products Ltd. Vs. Commissioner of C. Ex., Hyerabad,* 2011 (273) E.L.T.112 (Tri.-Bang.), *Union of India Vs. Steel Authority of India Ltd.* 2013 (297) E.L.T. 166 (Chhattisgarh) and *Ultratech Cement Ltd. Vs. Commissioner of Central Excise, Nagpur* 2015 (315) E.L.T. 238 (Tri.-Mumbai).

5. Ld. AR for the Revenue fairly submits that the issue is covered by the judgment of this Tribunal in *Sujana Metal Products Ltd. case (supra).*

6. We find that the limited issue for determination in the present appeals is whether the appellants are entitled/eligible, to avail

cenvat credit of duty paid on inputs used in or in relation to the manufacture of finished goods cleared to the developer of SEZ unit. Both sides have fairly agreed that the issue is covered by the judgment of this Tribunal in *Sujana Metal Products Ltd. case (supra).*

7. In the result, we do not find merit in the impugned order. Accordingly, the same is set aside and the appeals are allowed with consequential relief, if any, as per law.

(Pronounced in Court)

(Sanjiv Srivastava)
Member (Technical)

(Dr. D.M. Misra)
Member (Judicial)

SM.