CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH - COURT NO. 01

Excise Appeal No. 85561 of 2014

(Arising out of Order-in-Appeal No. NSK-EXCUS-000-APP-314-13-14 dated 13th November 2013 passed by Commissioner of Central Excise & Customs (Appeals), Nashik)

Haldex India Ltd. **.....Appellant**
D-08, MIDC Ambad,
Nashik 422 010.

VERSUS

Commissioner of Central Excise, Nashik **.....Respondent**
Kendriya Rajaswa Bhavan
Gadkari Chowk,
Nashik 422002.

Appearance:

Ms. Payal Nahar, C.A. for the Appellant
Shri Sanjay Hasija, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

FINAL ORDER NO. A/86666/2021

Date of Hearing:12.08.2021
Date of Decision:12.08.2021

PER : S.K. MOHANTY

Heard both sides and perused the records.

2. Brief facts of the case are that the appellant is engaged in manufacture of Parts of Brakes, falling under Chapter Sub-heading No. 87089900 of the Central Excise Tariff Act, 1985. The appellant avails cenvat credit in respect of the Central Excise Duty, CVD and Service Tax on the capital goods, inputs and input services received by it for use in or in relation to manufacture of the final product. During the

disputed period, while scrutinizing the records maintained by the appellant, the audit wing of the department observed that the appellant had availed cenvat credit on the basis of photocopies of 13 nos. of the Bills of Entry. Since, the appellant did not produce the original copy of the Bills of Entry for verification before the department, proceedings were initiated for denial of the cenvat benefit in respect of such Bills of Entry. The show cause notice issued in this regard was adjudicated vide order dated 28.06.2013, wherein the original authority had disallowed the cenvat credit amounting to Rs.43,24,161/- and also ordered for recovery of interest and equal amount of penalty from the appellant. On appeal, the learned Commissioner (Appeals) vide the impugned order dated 13.11.2013 has upheld the adjudged demands confirmed in the original order. Feeling aggrieved with the said impugned order, the appellant has preferred this appeal before the Tribunal.

3. On perusal of the case records, I find that the impugned order dated 13.11.2013 was appealed against before the Tribunal and vide order No. A/91774/2017 dated 01.09.2017, the appeal of the appellant was partly rejected on the ground of non-submission of the Bills of Entry or the certificate issued by the Jurisdictional Customs Authorities. The said order of the Tribunal was also appealed against by the appellant before the Hon'ble Bombay High Court. Vide order dated 10.06.2019, the Hon'ble Bombay High Court has set aside the order of the Tribunal with the direction for restoration of the appeal for a decision on merits.

4. Today when the matter was called for hearing, the learned Advocate appearing for the appellant submitted that the certificate issued by the Jurisdictional Customs Authorities, certifying that appropriate duty liability had already been discharged in respect of the goods imported under the disputed Bills of Entry. It is evident that the duty paid character of the goods and receipt of the same in the factory for use in the intended purpose have been duly complied with. Thus, I am of the considered view that on the strength of the certificate issued by the Jurisdictional Customs Authorities, the cenvat benefit should be available to the appellant.

5. In view of above, I do not find any justification to upheld the views taken by the Ld. Commissioner (Appeals) for dismissing the appeal filed by the appellant. Accordingly, by setting aside the impugned order, the appeal is allowed in favour of the appellant.

(Dictated and pronounced in the open court)

(S. K. Mohanty)
Member (Judicial)

Sm