CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH - COURT NO. 01

Excise Appeal No. 923 of 2011

(Arising out of Order-in-Original No.10/CEX/2011 dated 30.03.2011 passed by Commissioner of Central Excise, Nashik-422 002.)

AL-Karim Scrap Traders Pvt. Ltd. **.....Appellant**
282, Highland Court, B/203, Bandra Bazar Road,
Bandra, Mumbai-400 050.

VERSUS

Commissioner of Central Excise Nashik **..Respondent**
4th Floor, Kendriya Rajaswa Bhavan, Gadkari Chow,
Nasik-422 002.

Appearance:

Shri Vinay S. Sejpal, Advocate for the Appellant
Shri Sanjay Hasija, Authorized Representative for the Respondent

WITH

Excise Appeal No. 1084 of 2011

(Arising out of Order-in-Original No.10/CEX/2011 dated 30.03.2011 passed by Commissioner of Central Excise, Nashik-422 002.)

Mohammad Hood Khan **.....Appellant**
14, 3rd Floor, Asharfi Mahal, L.B.S. Marg, New Kamla
Court, Kurla (W), Mumbai

VERSUS

Commissioner of Central Excise Nashik **..Respondent**
4th Floor, Kendriya Rajaswa Bhavan, Gadkari Chow,
Nasik-422 002.

Appearance:

Shri Ashok Singh, Advocate for the Appellant
Shri Sanjay Hasija, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. A/86190-86191/2022

Date of Hearing: 22.07.2022
Date of Decision: 21.11.2022

PER : S.K. MOHANTY

The issue involved in these appeals relates to fraudulent availment of cenvat credit on the basis of invoices, without actual receipt of the material in the factory premises of M/s. Ramanand Steel Ltd. (RSL). The investigation conducted by the officer's of DGCEI reveal that certain manufacturers of MS Ingots had availed cenvat credit fraudulently without receipt of inputs/raw materials in their factory on the basis of Central Excise invoices issued by the registered dealers namely, M/s. Parmeshwari Steels Ltd., M/s. Indian Steel Company and M/s. Jai Ambey Multi Trade Pvt. Ltd. On the basis of such investigation, the department initiated show cause proceedings against various persons, including the appellants herein, seeking disallowance of inadmissible cenvat credit, imposition of penalties under various provisions of the erstwhile Central Excise Act, 1944 read with the Central Excise Rules, 2002 and the Cenvat Credit Rules, 2004. The matter arising out the SCNs was adjudicated vide the impugned order dated 30.03.2011, wherein the learned Adjudicating Authority has confirmed the proposal made in the SCNs. The said order has also imposed penalties of Rs. 3,00,000/- each on both the appellants under Rule 26 of the Central Excise Rules,2002. Feeling aggrieved with the impugned order, the appellants have preferred these appeals before the Tribunal.

2. Heard both sides and perused the records.

3. The case of the department is that the appellants herein had supplied the bazar scrap to M/s. RSL and subsequently managed the invoices from the registered dealers, showing that the original materials were delivered to the manufacturer of excisable goods and on the basis of such invoices M/s. RSL had availed irregular cenvat credit. For arriving at such conclusion, the department has relied upon the statement dated 13.11.2017 recorded from Shri Minaz M. Gadhia, Director of M/s. Al-Karim Scrap Traders Pvt. Ltd. In the said statement, the appellant had explained the *modus operandi* adopted by them in arranging for the invoices from the registered dealers, facilitating availment of cenvat credit by the manufacturer. Written synopsis filed by the Authorized Representative for Shri Minaz Z. Gadhia before the Tribunal had confirmed the fact that out of the 198 number of disputed invoices issued by the registered dealers, 18 invoices were arranged by the appellant M/s. Al-Karim Scrap Traders Pvt. Ltd. and 180 numbers of invoices were arranged by the other appellant Shri Mohamad Hood Khan @ Kaku. Further, I also find that this Tribunal in the appellant's own case, vide Order Nos. A/85711-85717/07/SMB dated 03.02.2017, A/88568-88569/17/SMB dated 30.06.2017 on identical facts and circumstances has held that the appellants were directly involved in issuance of cenvatable invoices without supply of goods for passing of the fraudulent cenvat credit. The appellants in these cases have not produced any documentary evidence to counted the stand of Revenue that the disputed invoices were not arranged by them from the registered dealers, on the basis of which the cenvat credit were availed by the manufacturer M/s. RSL. Therefore, the provisions of sub-rule (2) of Rule 26 of the Central Excise Rules, 2002 are attracted in the case in

hand for imposition of penalties on the appellants. Thus, there is no infirmity in the impugned order, insofar as it has imposed penalties on the appellants.

4. In view of the foregoing discussions, I do not find any merits in appeals filed by the appellants. Accordingly, the appeals are dismissed.

(Order pronounced in the open court 21.11.2022)

(S. K. Mohanty)
Member (Judicial)

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