CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI
REGIONAL BENCH, COURT NO. 4

EXCISE APPEAL NO. 85168 OF 2014

(Arising out of Order-In-Appeal No. SDK/200/BEL/2013-14 Dated 08.10.2013 passed by Additional Commissioner of Central Excise and Customs.)

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MUKAND LTD.
Thane Belapur Road, Kalwe
Thane-400 605. **.........Appellant**

Vs.

COMMISSIONER CGST AND CENTRAL EXCISE, BELAPUR.
1ST Floor, C.G.O. Complex, C.B.D.
Navi-Mumbai – 400 614. **.....Respondent**

Appearance:

Shri Ganesh Kumar, Chartered Accountant with Rushabh Luthar, Advocate for Appellant.

Shri P.K. Acharya, Superintendent, Authorized Representative for Respondent.

CORAM:
HON'BLE MR. ANIL.G.SHAKKARWAR, MEMBER (TECHNICAL)

Date of Hearing: 03.11.2023
Date of Decision: 03.11.2023

FINAL ORDER NO: 87103-87104/2023

Above stated two appeals are taken together for decision since the Appellant is same and issue is also same. One appeal is filed by one division called Kalwa Steel plant and the other appeal is filed by Machine Building division. The period of dispute in respect of appeal filed by Kalwa steel plant is from October 2010 to August 2011 and the period in respect of other appeal is from January 2007 to March 2011.

2. Brief facts of the case are that the Appellant is manufacturer and availing facility of the CENVAT credit. They are also availing facility of getting

the part of the work done by the job workers under the provisions of Rule 4 (5)(a) of CENVAT Credit Rules, 2004. When the inputs are sent to job workers, the appellant has already availed CENVAT credit of Central Excise duty paid on the inputs and such inputs are after being processed by job workers are brought back into the factory of the appellant and used in the manufacture of excisable goods. During the process, some scrap is generated at the end of the job worker. Contention of Revenue is that the CENVAT credit associated with the input that has gone into scrap should be recovered from the Appellant. Therefore, proceedings were initiated and confirmation of demand was fastened on the Appellant in both the cases in the proceedings at the lower level. Aggrieved by such orders appellant is before this Tribunal.

3. Learned Counsel has submitted that the provisions of Rule 4 (5)(a) of CENVAT Credit Rules and earlier MODVAT Rules are similar except for one deviation and the deviation is that in MODVAT Rules the job workers were required to return the scrap to the principal manufacturer whereas such provision has been done away with in CENVAT Credit Rules. He has further submitted that the issue has been clarified by CBEC through clarification issued through letter F. NO. B-4/7/2000 –TRU dated 03.04.2000 wherein paragraph (5) states that CENVAT credit shall be admissible in respect of the amount of inputs contained in any of the waste refused or by product. Relying on the said clarification, he pleads for setting aside the impugned orders.

4. Learned Authorized Representative has supported the Impugned orders.

5. I have carefully gone through the records of both the cases, CENVAT Credit Rules and the said clarification dated 03.04.2000 issued by the Central Board of Excise and Customs. It is very clearly clarified in paragraph

(5) of the said clarification that CENVAT credit shall be admissible in respect of amount of inputs contained in any waste, refused or by product. Hon'ble Supreme Court have already ruled that CBEC circulars are binding on the Department Officers. In view of the above discussions, it emerges that CENVAT credit cannot be denied or recovered on the basis of the fact that some input while processing has gone into waste, refuse or by product. It is immaterial whether such scrap is generated in the factory of manufacturer or at the premises of the job worker. I, therefore, hold that the Appellant were not required to reverse CENVAT credit in respect of inputs that have gone into scrap.

6. I, therefore, set aside both the impugned orders and allow both the appeals.

(Dictated and pronounced in open court.)

(ANIL.G.SHAKKARWAR)
MEMBER (TECHNICAL)

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