CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI
REGIONAL BENCH

Excise Appeal No. 85550 of 2020

(Arising out of Order-in-Appeal No. PUN/EXCUS-001/APP/166/2019-20 dated 31.12.2019 passed by the Commissioner of GST & Central Excise (Appeals-I), Pune)

Wheels India Ltd. **Appellant**
Plot No. C-1, MIDC, Ranjangaon
Ganapati Koregaon Village,
Taluka – Shirkur,
Pune Dist. 412 220.

Vs.

Commissioner of GST & CE, Pune-I **Respondent**
41-A, Sassoon Road, GST Bhavan,
Pune 411 001.

Appearance:

Shri P.R. Renganath, Advocate, for the Appellant
Shri P.K. Acharya, Superintendent, Authorised Representative for Respondent

CORAM:

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

Date of Hearing: 08.10.2024
Date of Decision: 26.11.2024

FINAL ORDER NO. 86880/2024

Brief facts of the case are that the appellant is manufacturer of motor vehicle parts falling under Chapter 84 of Schedule to Central Excise Tariff Act, 1985. Appellant is also availing facility of cenvat credit. During the period from September 2011 to March 2016, appellant was issued with a show cause notice dated 04.10.2016 proposing to deny cenvat credit on input services such as godown rent, loading, unloading, freight, painting and other miscellaneous expenses. Through the said show cause notice, there was a proposal to deny and recover cenvat credit of Rs.12,17,807/-. Subsequently, for the period from April 2016 to June 2017, a statement of demand under sub-section (1) read with sub-section (7A) of Section 11A of Central Excise Act, 1944 was issued through which there was a proposal to deny cenvat credit of Rs.7,26,764/- under the provisions of Rule 14 of Cenvat Credit Rules, 2004. The said statement of show cause notice was adjudicated through order-in-original dated 28.03.2019 wherein the said cenvat credit was disallowed and demand was confirmed with imposition of equal penalty. Aggrieved by the said order, appellant preferred appeal before learned Commissioner (Appeals) who did not interfere with the confirmation of demand but reduced penalty to Rs.72,676/-. Aggrieved by the said order, appellant is before this Tribunal.

2. Heard the learned counsel for the appellant. Learned counsel for the appellant has submitted that the original show cause notice which was issued on 04.10.2016 culminated in final order No. A/85851/2022 dated 13.09.2022 in Excise Appeal No. 87151 of 2019 and submitted that the appeal was allowed through the said final order and the denial of cenvat credit of Rs.12,17,807/- was set aside. He has further submitted that the present proceedings are in the form of a statement of demand based on the same show cause notice and, therefore, the final order dated 13.09.2022 squarely covers issue in the the present proceedings.

3. Heard the learned AR who has agreed that the present proceedings are arising out of a statement of demand where the original show cause notice culminated in the said final order dated 13.09.2022.

4. I have carefully gone through the record of the case and submissions. I note that the present demand is a statement of demand subsequent to a show cause notice dated 04.10.2016. I note that the said show cause notice dated 04.10.2016 culminated in final order No. A/85851/2022 dated 13.09.2022 in Excise Appeal No. 87151 of 2019 reported at 2022 (9) TMI 735 – CESTAT Mumbai. On going through the said final order, I note that cenvat credit availed by the appellant on input services such as godown rent, unloading, loading etc. were held to be eligible input services for the appellant and cenvat credit was allowed to the appellant.

5. Following the precedent decision in appellant's own case for earlier period, I set aside the impugned order and allow the appeal.

(Order pronounced in the open court on 26.11.2024)

(Anil G. Shakkarwar)
Member (Technical)

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