-CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 86345 of 2015
And
Excise Cross Objection No. 91174 of 2015

(Arising out of Order-in-Original No. PUN-EXCUS-004-COMMISSIONER-08/14-15 dated 17.03.2015 passed by the Commissioner of Central Excise & Service Tax, Pune-IV)

Commissioner of Central Excise & Service Tax, Pune-IV .... **Appellant**
ICE House, 41-A, Sassoon Road,
4th Floor, Opp. Wadia College,
Pune – 411 001

Versus

M/s Yazaki India Ltd. .... **Respondent**
Gat No. 93, S.No. 166, High Cliff Industrial Estate,
Wagholi-Rahu Road, Kesnand,
Pune – 412 207

Appearance:

Shri C.S. Vinod, Authorized Representative for the Appellant

Shri Rajesh Ostwal, Advocate for the Respondent

CORAM:

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

FINAL ORDER NO. A/87446/2024

Date of Hearing: 04.12.2024

Date of Decision: 04.12.2024

PER: S.K. MOHANTY

Heard both sides and perused the case records.

2. Briefly stated, the facts of the case are that the respondents herein are engaged in the manufacture of Integrated Automobile Wire Harness Sets, falling under Chapter Heading 8544 of the First Schedule to the Central Excise Tariff Act, 1985. For manufacturing the said final product, the respondents procured/imported duty paid cooper wires/PVC wires. The respondents availed CENVAT Credit of central excise duty paid on the copper wires/PVC wires. The manufacturing process of the said final product involved cutting of wire into specific length and preparing wire

harness sets with the help of other components such as tape, connectors, terminals etc. The respondents had interpreted that the generation of waste and scrap of copper/PVC wires would not amount to manufacture and accordingly, did not discharge the central excise duty liability in respect of clearance of those waste and scrap items made for the period August, 2009 to May, 2014. Non-payment of central excise duty on such waste and scrap items was disputed by the Department on the ground that generation of waste/scrap of PVC insulated wires are excisable goods falling under Chapter 7404 of the Central Excise Tariff Act, 1985 and accordingly, the respondents were required to discharge the central excise duty liability on removal of such waste and scrap out of their factory premises. The show-cause notice dated 08.09.2014 issued by the Department was adjudicated vide the Order-in-Original dated 17.03.2015 (impugned herein), wherein the original authority has dropped the proposals made in the show-cause notice, seeking for confirmation of the central excise duty demand. In support of dropping the show-cause proceedings initiated against the respondents, the learned adjudicating authority has held that no tariff entry has been provided in the Central Excise Tariff Act, 1985 for waste/scrap of PVC insulated wires and also has held that the waste and scrap has not arisen out of the manufacturing activity and therefore, the central excise duty demand cannot be fastened on the respondents. Feeling aggrieved with the impugned order dated 17.03.2015, Revenue has preferred this appeal before the Tribunal.

3. Revenue has assailed the impugned order on the ground that generation of waste and scrap of copper/PVC wires would amount to manufacture and also are classifiable under Chapter 7404 of the Central Excise Tariff Act, 1985 and thus, the respondents were liable to pay central excise duty on removal of those waste and scrap material outside the factory premises.

4. We find that the generation of waste and scrap of PVC insulated wires/copper wires are not arising out of any manufacturing process and those were simply the end cuttings of the wires procured by the respondents for the manufacture of the final products. Since generation of waste and scrap cannot be considered as arising out of any manufacturing process, such activity undertaken by the respondent, in our considered view, would not attract payment of central excise duty. Further, the Department had also not correctly classified the goods under Chapter

Heading 7404 to hold that the respondents should be liable for payment of central excise duty on the waste and scrap of PVC insulated wires generated during the course of manufacture of final products. We find that the issue arising out of the present dispute has already been dealt with by the Co-ordinate Bench of the Tribunal, in the case of *Finolex Cable Ltd. Vs. Commissioner of Central Excise, Pune-I*- reported in *2024 (6) TMI 618 – CESTAT MUMBAI*. On identical set of facts, the Tribunal has held that waste and scrap arising during the manufacture of cables are not liable for payment of central excise duty.

5. In view of the foregoing discussions, we do not find any infirmity in the impugned order, insofar as it has dropped the show cause proceedings initiated against the respondents. Therefore, appeal filed by Revenue is dismissed.

6. Cross objection filed by the respondents also stands disposed of.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha