CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI
REGIONAL BENCH
COURT No. 5

Excise Appeal No. 86842 of 2015

(Arising out of Order-in-Original No. PUN-EXCUS-002-PR.COM-005-15-16 dated 30.06.2015 passed by the Principal Commissioner of Central Excise, Pune-II)

DTL Ancillaries Pvt. Ltd. **Appellant**
Gut No.366, Ambethan Road,
Chakan, Pune 410 501.

Vs.

Commissioner of Central Excise, Pune-II **Respondent**
41-A, Sassoon Road, Opp. Wadia College,
Pune 411 001.

Appearance:

Shri Akshay Hawaldar, Advocate, for the Appellant
Shri Vinod S. Chettiparambil, Assistant Commissioner, Authorised Representative for Respondent

CORAM:

HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

Date of Hearing: 22.10.2024
Date of Decision: 03.01.2025

FINAL ORDER NO. 85004/2025

PER: ANIL G. SHAKKARWAR

Brief facts of the case are that the appellant is manufacturer of load bodies for Tata LCV vehicles, cold rolled forming sections for Indian Railways and Piaggio and Tata Motors and also manufacturer of parts of wagon and AC coaches. They were issued with a show cause notice dated 30.12.2014. It was stated in the said show cause notice that the appellant was having three manufacturing plants viz. Plant No.1 situated at Gat No.366, Ambethan Road, Chakan, Pune, Plant No.2 situated at Plot No.43, WMDC Industrial Area, Chakan, Pune and Plant No.3 situated at Gat No.373/1, WMDC Industrial Area, Chakan, Pune. It was further stated that Plant No.1 was having Central Excise registration bearing No. AABCM9380KXM001 and central excise duty was paid at normal rate of duty. It was stated in the show cause notice that investigation revealed that capital goods were brought into Plant No.1 and cenvat credit of central excise duty paid on the said capital goods to the tune of Rs.1,38,46,417/- was taken and those capital goods were removed to Plant No.2 and Plant No.3 for carrying out part of the operations for completion of the manufacturing process for the above stated goods to be manufactured. In the said show cause notice, Plant No.1 is also referred to as Unit No.1, Plant No.2 is also referred to as Unit No.2 and Plant No.3 is also referred to as Unit No.3. It was contended in the said show cause notice that Central Excise registration is only for Plant No.1 and Plant No.2 and the three units are not having any Central Excise registration nor they are part of the registration at Plant No.1 and after availing the above stated cenvat credit on capital goods, the capital goods were removed to Plant No.2 and 3. Therefore, it was alleged that the appellant was not eligible to avail the said cenvat credit. Therefore, through the said show cause notice, it was proposed to recover the above stated cenvat credit and also was proposed to appropriate an amount of Rs.1,24,86,431/- already paid by the appellant. Further there were proposals to impose penalties and confiscate the said capital goods. On contest, the said show cause notice was adjudicated through the impugned order-in-original wherein the original authority has disallowed the above stated cenvat credit and appropriated the amount proposed for appropriation in the said show cause notice. He has further imposed a penalty of Rs.4,75,432/- on the appellant under Section 11AC of Central Excise Act, 1044 and imposed penalty equal to cenvat credit denied under the provisions of Section AC(1)(a) of Central Excise Act, 1944. Aggrieved by the said order, appellant is before this Tribunal.

2. Heard the learned counsel for the appellant. Learned counsel has submitted that Plant No.2 and 3 are not separate entities and they are part of the same manufacturing unit. He has further submitted that to amalgamate all the three plants into already existing Central Excise registration, an application was filed on 08.06.2016 and on 24.06.2016 Principal Commissioner of Central Excise having jurisdiction over the manufacturing unit has allowed permission for single registration in respect of the above stated all the three plants under the

existing Central Excise registration No. AABCM9380KXM001 and submitted that it proves that the different plants were part of the same manufacturing unit and, therefore, the allegations in the show cause notice are established to be based on incorrect assumptions. He has also relied on the ruling by Hon'ble Madras High Court in the case of CCE, Coimbatore vs. Habasit Lakota (P) Ltd. reported at 2014 (306) ELT 455 (Mad.). He has further submitted copy of letter F. No. VGN(19)69/Tech/PII/DTL Ans/2016/1512 dated 24.06.2016 issued by Assistant Commissioner, Central Excise, Pune-II Commissionerate informing the appellant that Principal Commissioner of Central Excise, Pune-II Commissionerate has granted permission for single registration in respect of all the three units stated in this case under the existing registration also stated in this case.

3. Heard the learned AR. Learned AR has not submitted any comment on the fact of Revenue allowing all the three plants which are also called units having single registration with effect from 24.06.2016.

4. We have carefully gone through the record of the case and submissions made. We note that the contention of Revenue is that capital goods were brought into Plant No.1 which is also referred to as Unit No.1 and after availing cenvat credit, they were utilized into Plant No.2 and 3 which were also referred to as Unit No.2 and 3 and during the relevant time those units were not part of the Central Excise registered premises and, therefore, there was proposal for denying cenvat credit which was confirmed by the original authority. We note that through the communication dated 24.06.2016 referred to above, Principal Commissioner of Central Excise having jurisdiction over all the three plants has allowed them to be treated as part of the existing Central Excise registration No. AABCM9380KXM001. We, therefore, hold that different units stated in the present proceedings are part of the same manufacturing unit and, therefore, there is no case of capital goods being removed out of the manufacturing unit after availing cenvat credit.

5. We, therefore, set aside the impugned order and allow the appeal with consequential relief, if any, in accordance with law.

(Order pronounced in the open court on 03.01.2025)

(Anil G. Shakkarwar)
Member (Technical)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

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