CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 86136 of 2020

(Arising out of Order-in-Original No. 01/SK/COMMR/RGD/2020-21 dated 23.06.2020 passed by the Commissioner of CGST & Central Excise, Raigad)

M/s Hindalco Industries Limited **.... Appellant**
Plot No. 2, MIDC, Nawade Road, Taloja,
Dist. Raigad, Maharashtra – 410 208

Versus

Commissioner of CGST & Central Excise, Raigad **.... Respondent**
Plot No. 1, Sector – 17, Khandeshwar,
New Panvel, Navi Mumbai – 410 206

Appearance:

Shri Rajesh Ostwal, Advocate a/w Shri Neeraj Bajaj, C.A. for the Appellant

Shri Mahesh Patil, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. A/85947/2025

Date of Hearing: 25.04.2025
Date of Decision: 25.04.2025

PER: S.K. MOHANTY

Heard both sides and perused the case records.

2. Briefly stated, the facts of the case are that the appellants are engaged in the manufacture of Aluminum products, falling under Chapter 76 of Central Excise Tariff Act, 1985. For manufacture of the said final products, the appellants procure various raw materials from their sister concern. On the basis of the invoices received from their sister concern, the appellants avail CENVAT Credit of Central Excise duty indicated/paid thereon. During the disputed period, the appellants had received the goods along with invoices from their sister unit, located at Hirakud in the State of Orissa. The Central Excise duty paid by the Hirakud unit, as per the invoices, was availed as CENVAT Credit by the appellants. However, the jurisdictional Central

Excise authorities at the supplier's end (sister concern unit) initiated proceedings against them, alleging undervaluation of goods cleared to the appellants. In the proceedings initiated against the Hirakud unit of the appellants, the Department had alleged suppression, willful mis-statement etc. Since the additional duty demanded by the jurisdictional Central Excise authorities was paid by the Hirakud unit and issued supplementary invoices to the appellants, entitling them to avail the CENVAT Credit, the appellants had availed CENVAT Credit on the basis of the supplementary invoices received from the Hirakud unit. However, taking of CENVAT Credit by the appellants was disputed by the Department on the ground that, since the proceedings were initiated against the Hirakud unit, alleging suppression of facts and willful mis-statement etc., as per the provisions of Rule 9(1)(b) of CENVAT Credit Rules, 2004, the appellants should not be eligible to avail the CENVAT Credit on the strength of the supplementary invoices. The show-cause proceedings initiated in this regard, was adjudicated upon by the learned Commissioner of CGST & Central Excise, Raigad, in confirming the proposals made therein. Feeling aggrieved with the impugned order dated 23.06.2020, the appellants have preferred this appeal before the Tribunal.

3. We find that the adjudication orders passed by the jurisdictional Commissioner of Central Excise in confirming the duty demand on the Hirakud unit of the appellants, were appealed against before the Tribunal and the Tribunal vide Final Order No. 75416/2023 dated 16.05.2023 and Order Nos. 77236-77239/2023 dated 25.09.2023 has dropped the proceedings initiated against the Hirakud unit of the appellants on merits. Since the show-cause notice (SCN) initiated against the Hirakud unit of the appellants on alleged suppression and willful mis-statement etc., and in view of the fact that the adjudication orders passed on the basis of those SCNs were dropped by the Tribunal, we are of the view that the jurisdictional Central Excise officers at the appellants' end cannot deny the CENVAT Credit availed on the basis of supplementary invoices. It is an admitted fact on record that the supplementary invoices have been recognized as proper and valid documents for availment of the CENVAT Credit in the statute. Since the appellants had availed CENVAT Credit of Central Excise duty paid by their sister concern unit located at Hirakud and such duty liability has also been accepted by the Department as due discharge of duty liability, we are of the view that taking of CENVAT Credit by the appellants is in conformity with the statutory provisions.

4. In view of the foregoing discussions, we do not find any merits in the impugned order, insofar as it has denied the CENVAT Credit and confirmed the adjudged demands against the appellants. Therefore, the impugned order is set aside and appeal is allowed in favour of the appellants.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha