CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 758 of 2012

(Arising out of Order-in-Original No. 01/Central Excise/2012 dated 19.01.2012 passed by the Commissioner of Central Excise, Pune-I)

SKF India Ltd. (ISD) **.... Appellant**
Chinchwad, Pune- 411 035.

Versus

Commissioner of Central Excise and Service Tax, Pune-I **.... Respondent**
ICE House, 41-A, Sasoon Road,
Opposite Wadia College, Pune- 411 001.

With

Excise Appeal No. 85508 of 2013

(Arising out of Order-in-Original No. 35/RKS/CEX/P-1/2012 dated 01.11.2012 passed by the Commissioner of Central Excise, Pune-I)

SKF India Ltd. (ISD) **.... Appellant**
Chinchwad, Pune- 411 035.

Versus

Commissioner of Central Excise and Service Tax, Pune-I **.... Respondent**
ICE House, 41-A, Sasoon Road,
Opposite Wadia College, Pune- 411 001.

APPEARANCE:

Shri S.S. Gupta, Chartered Accountant for the Appellants

Shri Xavier P.M. Mascarenhas, Authorized Representative for the Respondents

CORAM:

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

FINAL ORDER NO. A/87593-87594/2024

Date of Hearing: 17.12.2024

Date of Decision: 17.12.2024

Per: S.K. MOHANTY

Briefly stated, the facts of the case are that M/s. SKF India Ltd., are engaged in the manufacture of excisable goods i.e., Ball and Roller Bearing and also engaged in the trading activity of the same goods. The factory of the appellants located at Pune, avail Cenvat Credit of service tax distributed to them by the Pune Input Service Distributor (ISD), who are the appellants herein. During the period February and March 2011, the appellants had availed CENVAT Credit of service tax and distributed such credit proportionately among the Pune manufacturing unit and Bangalore unit. Since, the common CENVAT credit was availed and utilized for clearance of the excisable goods and for trading activities, the appellants were required to maintain separate accounts to bifurcate the input service tax credit attributable to the manufacturing and trading activities. However, they did not maintain separate accounts as provided for in the statute and accordingly, show cause proceedings were initiated by the department, calling upon the appellants as to why penalty shall not be imposed on them under Rule 15A of the CENVAT Credit Rules, 2004. The matter arising out of the Show Cause Notice (SCN) was adjudicated vide the Orders-in-Original dated 19.01.2012 and 01.11.2012 (for short, referred to as the "impugned orders"), wherein the learned Commissioner of Central Excise, Pune-I has imposed penalty of Rs.5,000/- each under Rule 15A *ibid* on the appellants. Feeling aggrieved with the said impugned orders, the appellants have preferred these appeals before the Tribunal.

2. Heard both sides and perused the case records.

3. It is an admitted fact on record that the appellants, in the capacity as ISD, got themselves registered with the jurisdictional Central Excise/Service Tax authorities and had also availed CENVAT credit of service tax paid on the input services. Since, CENVAT credit was availed on common input services, which were used for clearance of the dutiable final products and also for the 'trading' activities, the appellants were required to comply with the provisions of Rule 6 *ibid* for maintenance of separate accounts in respect of both the activities i.e., dutiable and non-dutiable, undertaken by them. It is an undisputed fact that the appellants did not maintain the records as provided under the statute. Thus, they have contravened the provisions of the CENVAT statute, for which they are exposed to the penal consequences provided therein. Insofar as, imposition of penalty under such circumstances is concerned, Rule 15A *ibid* provides for imposition of general penalty, in the eventuality where the statutory provisions have been contravened. In view of the fact that the

appellants did not comply with the provisions of the CENVAT statute, imposition of penalty in the impugned orders, in our considered view, is proper and justified. Further, the appellants have contended that since the penalty under Rule 15 (2) *ibid* read with Section 11AC of the Central Excise Act, 1944 has been imposed on the Pune factory of the appellants; for the same contravention, separate penalty cannot be imposed on them under Rule 15A *ibid*. We find that both the Pune factory as well as the ISD distributor of the appellants were separately registered with the Central Excise department. Since, both the registered premises are considered separate entity under the Central Excise statute, contravention of the statutory provisions by either of the units are exposed to the penal consequences provided under the statute. Hence, the stand of the appellants that no penalty can be imposed on them under Rule 15A *ibid,* does not hold good.

4. In view of above, we do not find any infirmity in the impugned order. Accordingly, the appeals filed by the appellants are dismissed.

(Operative part of the order pronounced in open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

SM