(2024) 02 CESTAT CK 0018

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Excise Appeal No. 78889 Of 2018

M/s. VSP Steel Private Limited — APPELLANT

Vs

Commissioner Of G.S.T. And Central Excise — RESPONDENT

Date of Decision : 12-02-2024

Acts Referred:

Citation : (2024) 02 CESTAT CK 0018

Hon'ble Judges : K. Anpazhakan, Member (Technical)

Bench : Single Bench

Advocate : B.K. Singh

Final Decision : Allowed

Judgement

K. Anpazhakan, Member (Technical)

1. None appeared for the appellant. However, since the issue is pending for a long period of time, the matter is taken up for decision with the assistance of the Ld. Authorized Representative for the respondent.

2. The issue involved in the present appeal pertains to wrong availment and utilization of CENVAT Credit of Rs.1,88,250/- on services like commission charges, testing charges, etc., during the period from 2008-09 to 2009-10. The said credit has been denied on the ground that the documents were issued in favour of their Head Office located in Kolkata, but the Head Office did not have any Service Tax Registration as an Input Service Distributor (ISD). Accordingly, it was contended that the credit passed on by the Head Office is not proper. It was also alleged that in some of the invoices, registration number of the service provider was missing.

3. Accordingly, a Notice was issued to the appellant and after due process of adjudication, the said denial of credit was confirmed, along with interest and penalty.

4. Against the said order of the adjudicating authority, the appellant filed an

appeal before the ld. Commissioner (Appeals)-Additional Director General (Taxpayer Services), Kolkata Zonal Unit, who vide order impugned herein upheld the order passed by the adjudicating authority and rejected the appeal filed by the appellant.

5. Aggrieved by the said denial of CENVAT Credit, the present appeal has been filed by the appellant.

6. Heard the Ld. Authorized Representative appearing for the respondent and perused the documents available on record.

7. I find that the CENVAT Credit availed by the appellant has been denied on the ground that the invoices were in the name of the Head Office and the Head Office had not taken registration as Input Service Distributor (ISD) for the purpose of distributing credit; also on some of the invoices issued by the service provider, there was no registration number available. These objections are primarily technical in nature. There is no allegation in the impugned order regarding the receipt and utilization of the input services for providing output services by the appellant. There is also no allegation regarding the duty payment nature of these input services. Accordingly, I hold that the substantial benefit of CENVAT Credit cannot be denied only on account of mere procedural infirmities.

8. In view of the above, I hold that the rejection of CENVAT Credit in the impugned order is not sustainable.

9. Accordingly, I set aside the impugned order and allow the appeal filed by the appellant.