(2016) 03 CESTAT CK 0004

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Excise Appeal No. 53297 Of 2015

M/s.Rallison Electricals Pvt. Ltd. — APPELLANT

Vs

C.C.E., Jaipur — RESPONDENT

Date of Decision : 22-03-2016

Acts Referred:
Central Excise Act, 1985 — Chapter 85
Cenvat Credit Rules, 2004 — Rule 6, 6(6)(i)

Citation : (2016) 03 CESTAT CK 0004

Hon'ble Judges : S.K. Mohanty, J

Bench : Single Bench

Advocate : R.K.Hasija, Kanu Verma Kumar

Final Decision : Allowed

Judgement

1. This appeal is directed against the impugned order dated 02.06.2015 passed by the Commissioner of Customs and Central Excise (Appeals), Jaipur.

2. Brief facts of the case are that the appellant is engaged in manufacture of electrical copper wires & cables falling under Chapter 85 of the Central

Excise Act, 1985. The appellant avails cenvat credit of Central Excise duty paid on inputs used in or in relation to manufacture of final product. The

period in dispute is from April 2007 to December, 2008. During the disputed period, the appellant had cleared excisable final Products to the SEZ

developer without Payment of Central Excise duty. Supply of goods to the SEZ developer was considered by the Central Excise Department as

exempted goods and confirmed the impugned demand against the appellant.

3. Shri R.K. Hasija, the ld. Advocate appearing for the appellant submits that excisable goods cleared to a developer of Special Economic Zone was

inserted in Rule 6 of the Cenvat Credit Rules 2004 on 31.12.2008 by way of substitution of the said Rule. According to the ld. Advocate, since the

SEZ developer was incorporated in the Rule 6 by way of substitution, the same should have retrospective effect and since the appellant had supplied

the goods during the period April 2007 to December, 2008 to the SEZ developers, the benefit provided therein should be applicable to the appellant. To

support his above stand, the ld. Advocate has relied on the judgment of Honâ??ble Karnataka High Court in the case of Commissioner of C. Ex. &

S.T., Bangalore vs. Fosroc Chemicals (India) Pvt. Ltd. reported in 2015 (318) E.L.T. 240 (Kar.,) Commissioner vs. Ultra Tech Cement Ltd., reported

in 2015 (317) E.L.T. A 200, (2.50) (A.P.) Union of India vs. Steel Authority of India Ltd. reported in 2013 (297) E.L.T. 166 (Chattisgarh)and the

decision of this Tribunal in the case of Ultra Tech Cement Ltd., vs. Commissioner of Central Excise, Tirupati reported in 2014 (310) E.L.T. 170 (Tri.

â?" Bang.). and Sujana Metal Products Ltd. vs. Commissioner of Central Excise, Hyderabad reported in 2011 (273) E.L.T. 112 (Tri.-Bang.).

3. On the other hand, Mrs. Kanu Verma Kumar, ld. D.R. appearing for the Revenue â?" respondent reiterates the findings recorded in the impugned

order.

4. I have heard the ld. Counsel for both sides and perused the records.

5. I find that the issue arising out of the present dispute regarding retrospective application of Rule 6 ibid, amended on 31.12.2008 has already been

settled by the decisions relied on by the ld. Advocate in the case of Fosroc Chemicals (India) Pvt. Ltd.(supra), wherein the Honâ??ble Karnataka

High Court has held that the amendment took place in Rule 6(6)(i) in 2008 has to be construed as retrospective in nature and the said statutory

provision will be extended to the goods cleared to a developer of a special economic zone for their authorised operations.

6. In view of the fact that the issue arising out of the present dispute is no more res-integra, being covered by various decisions of the judicial forums, I

do not find any merits in the impugned order and thus, allow the appeal in favour of the appellant.

[Dictated and Pronounced in the Open Court]

