IN THE CUSTOMS, EXCISE AND SERVICE TAX

APPELLATE TRIBUNAL, NEW DELHI

PRINCIPAL BENCH, COURT NO. IV

Appeal No. E/50257/2016-EX(SM)

[Arising out of Order-in-Appeal No. BHO-EXCUS-002-APP-198-1-16 dated 15.10.2015, by the Commissioner of Customs, Central Excise & Service Tax (Appeals), Raipur].

For approval and signature:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)

1

Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?

No

2

Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?

3

Whether Their Lordships wish to see the fair copy of the Order?

Seen

4

Whether Order is to be circulated to the Departmental authorities?

Yes

M/s. Pankaj Oxygen Ltd. .Applicants

Vs.

C.C.E. Raipur .Respondent

Appearance:

Written submission on behalf of the Applicants

Shri S. Nunthuk, DR for the Respondent

CORAM:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)

Date of Hearing: 29.08.2016

Date of Pronouncement: 24.10.2016

FINAL ORDER NO. 54521/2016-ST(SM)

Per Archana Wadhwa:

The dispute in the present appeal relates to admissibility of Cenvat Credit of duty paid on various iron and steel items, used for manufacture of trolleys which are specified as capital goods. Lower authorities have denied the credit to the tune of Rs.14597 on the ground that trolleys cannot be held to be capital goods.

2. The appellants in their written submission have drawn my attention to various decisions of the Tribunal wherein iron and steel items in the shape of plates, channels, etc. were held to be admissible as Cenvat Credit. Reference is made to the Tribunals decision in the following cases:

(i) Oudh Sugar Mills Vs. CCE, Lucknow-2008 (226) ELT 630 (Tri-Del).

(ii) Oudh Sugar Mills Vs. CCE, Lucknow-2008 (226) ELT 113 (Tri-Del).

(iii) CCE Coimbatore Vs. Madras Aluminium Company Ltd.-2008 (226) ELT 342 (Mad-High Court).

(iv) CCE & Cus, Visakhapatnam-I Vs. Rashtriya Ispat Nigal Ltd.-2011 (27) ELT 338 (AP).

3. In as much as such angles, plates etc. stand used in the manufacture of trolleys which are nothing but capital goods, I am of the view that the appellant is entitled to the benefit of Cenvat Credit duty paid on the same.

4. Accordingly impugned order is set aside and appeal allowed with consequential relief to the appellant.

[Order pronounced in the open Court on 24.10.2016]

(Archana Wadhwa)

Member (Judicial)

Bhanu