

O-394

CEXA/8/2022

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (Central Excise)
ORIGINAL SIDE

COMMISSIONER OF CENTRAL EXCISE,
BOLPUR COMMISSIONERATE

-Versus-

M/s. PONDY TECHNOLOGY LTD.

BEFORE :
THE HON'BLE JUSTICE SURYA PRAKASH KESARWANI
And
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
Date : 3rd May, 2024

Appearance:
Mr. K. K. Maiti, Adv.
...for the appellant.

Dr. Samit Chakraborty, Adv.
Mr. Bhaskar Sengupta, Adv.
...for the respondent.

1. Heard Sri Maiti, learned standing counsel for the appellant and Sri Chakraborty, learned counsel assisted by Sri Bhaskar Sengupta, learned Advocate for the respondent.
2. This appeal has been filed by the revenue praying to set aside the final order dated No.76955/2019 dated 18.12.2019 passed by the Customs, Excise and Service Tax Appellate Tribunal, Kolkata. We have perused the impugned judgment and carefully considered the submissions of learned counsel for the parties.
3. We find that in paragraph 2 of the impugned judgment, the Tribunal has noted the facts and activity of the respondent. In paragraphs 8 to 12, it

meticulously considered the controversy and the evidences on record and thereafter recorded the finding as under:

“13. In the instant case also we find that it is an undisputed fact that the appellant procured duty paid machineries, parts and accessories of ‘Continuous Automatic Coil to Coil Colour Coating Line’ and ‘Briquetting Hydraulic Press’ and carried out the processing jobs thereon as set out in the impugned order, which included “assembly” to produce the aforesaid final products which were exported upon payment of duty under claim of rebate. It is also seen from the records that the input machines, parts and accessories were goods classifiable as excisable goods by themselves under tariff items different from the tariff items under which the exported final products were classified. Hence, the principle laid down in the aforesaid decisions of the Hon’ble Supreme Court and this Bench of the Tribunal are applicable to the instant case. Respectfully following the same, we are, therefore, of the view that the activities undertaken by the appellant amounted to ‘manufacture of excisable goods within the meaning of Section 2(f) of the Central Excise Act, 1944.

14. Consequently, the appellant is eligible to avail Cenvat Credit of the duty paid on the said input machineries, parts, etc. under the Cenvat Credit Rules and there is no infirmity on the part of the appellant in availment of Cenvat credit in the instant case. The disallowance of Cenvat credit of Rs.1,76,17,647/- and the duty demand of Rs.61,94,772/- confirmed by the impugned order against the appellant are therefore unsustainable.”

4. We are of the view that the findings recorded by the tribunal are findings of fact based on consideration of relevant evidences on record and law settled by the Hon’ble Supreme Court. Thus, no substantial question of

law arises from the impugned order of the Tribunal. Consequently, the appeal (CEXA/8/2022) is dismissed at the admission stage.

(SURYA PRAKASH KESARWANI, J.)

(RAJARSHI BHARADWAJ, J.)

A/s.