

Procedural lapses cannot be ground for denying substantive benefits

The CESTAT, Kolkata in the matter of *M/s. S. L. Polypack Private Limited v. Commissioner of CGST & CX, Howrah Commissionerate [Excise Appeal No.75342 of 2018 dated January 20, 2023]* set aside the order denying CENVAT Credit to the assessee and held that, procedural lapses cannot be a ground for denying substantive benefits to the assessee. Further held that, the Show Cause Notice (“SCN”) issued before the passing of such order was barred by limitation.

Facts:

M/s. S. L. Polypack Private Limited (“**the Appellant**”) is a manufacturer of plastic cup and plates. The Appellant had received some input goods under the cover of input invoices issued by one M/s. L. G. Polymers India Ltd. for the period of 2007-08 and 2008-09, and had utilized the same in the manufacture of finished products and the finished goods were cleared on payment of appropriate duty. The Appellant had taken credit duty on the said inputs.

A SCN was issued to the Appellant dated August 1, 2013 (“**the Impugned SCN**”) proposing to recover CENVAT Credit amounting to INR 1,50,194/- on the allegations that the input invoices did not mention the credit registration number of the consignee and registration number of the carrier vehicle and the delivery of goods was made at a place other than the factory of the Appellant. The Revenue Department (“**the Respondent**”) alleged that the credit was taken by the Appellant on the basis of ineligible documents.

The Appellant, in their reply to the Impugned SCN, stated that the defects pointed out by the Respondent were technical or procedural lapses but there was no dispute in duty paying character of the goods, receipt of the goods and utilization of the same in the manufacture of the finished products and it submitted that technical lapses cannot stop it from claiming benefits. However, the Respondent vide order dated July 3, 2014 (“**the Impugned Order**”)

denied credit and also imposed penalty upon the Appellant. On Appeal, the Commissioner (Appeals) upheld the decision in the Impugned Order.

The Appellant contended that it had given the registration number, which was allotted to them prior to the allotment of PAN based registration number. Further, that non-mentioning of the vehicle number is a minor procedural error and it cannot be the ground for denying credit. Further, the ***Circular No. 441/7/99 – CX, dated February 23, 1999*** (“the Impugned Circular”) had clarified that CENVAT Credit cannot be denied for minor procedural lapses. Further, the demand was barred by limitation as the period of dispute was 2007-08 and 2008-09 and the Impugned SCN was issued on August 1, 2013.

Issue:

Whether the Impugned SCN and the Impugned Order are sustainable?

Held:

The CESTAT, Kolkata in ***Excise Appeal No.75342 of 2018*** held as under:

- Observed that, there was no dispute with regard to the place of delivery of the goods and the goods were received at the factory and accordingly the Impugned Order denying CENVAT Credit is not correct and the Excise Duty was paid on those goods which are subject matter of the invoices.
- Stated that, guidelines have been issued in the Impugned Circular, that SCN should not be issued for procedural lapses without making proper enquiries and efforts should be made to reduce litigations.
- Noted that, the Impugned SCN was issued much after the expiry of the normal period.
- Held that, substantive benefits cannot be denied on procedural grounds and accordingly the Impugned Order cannot be sustained.
- Further held that, the Impugned SCN was barred by limitation.

- Set aside the Impugned Order.

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