

IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA

CEA No. 4 of 2010
Decided on: 16.6.2012

Commissioner, Central Excise Chandigarh, Central Revenue
Building, Plot No. 19, Sector-17C, Chandigarh-1.

.....Appellant

Versus

M/s Ansysco, Plot No. 19 F, Sector-2, Parwanoo, District
Solani (HP), through its General Manager

.....Respondent

**Central Excise Appeal under Section 35 G of Central
Excise Act, 1944.**

Coram

Hon'ble Mr. Justice Deepak Gupta, Judge

Hon'ble Mr. Justice Rajiv Sharma, Judge

Whether approved for reporting? no

For the Petitioner : Mr. Rajiv Jiwan, Advocate

For the Respondent : Mr. Rahul Mahajan, Advocate

Deepak Gupta, Judge (oral):

This appeal was admitted on the following question
of law:-

**Whether a manufacturer is required to
reverse/pay the amount equivalent to the
CENVET credit taken by him in respect of inputs
which are proved to have been used in the
manufacture of goods which have been cleared
under exemption from excise duty, in view of the
specific provisions of Rule 6(1) of CENVAT Credit
Rules, 2002 (now 2004) read with Explanation II
to Rule 6 (3) of the said rules which provide that
no credit can be taken in respect of inputs which
are used in the manufacture of exempted goods?**

2. The short question which arises for decision is whether a manufacturer who has obtained credit of central value added tax paid by him in respect of the raw material and inputs lying in the stock or in the process or contained in the final product lying in stock is required to refund/repay the credit when the final product is exempted from excise duty.

3. We have heard Mr. Rajiv Jiwan, learned standing counsel for Central Excise Department and Mr. Rahul Mahajan, learned counsel for the assessee on behalf of Revenue. It has been contended by Shri Rajiv Jiwan that in view of the specific provisions of Rule 6(1) of CENVAT Credit Rules, 2002 read with Explanation II to Rule 6 (3) of the said rules, no credit can be taken in respect of the inputs, which are used in the manufacture of exempted goods.

4. This matter has been considered in detail by this Court in **Commissioner of Central Excise Chandigarh** versus **Saboo Alloys Private Limited**, 2010 (249) ELT 519, H.P and **Commissioner of Central Excise Chandigarh** versus **United Vanaspati Limited**, 2009 TIOL 723 HP . In both these cases, this Court after considering the entire law has answered the question in favour of assessee and against the Revenue. These judgments have attained finality.

5. Therefore, the present appeal is dismissed on account of law laid down in the aforesaid two cases. No costs.

**(Deepak Gupta,)
Judge**

**(Rajiv Sharma),
Judge**

June 16, 2012
(kalpana)