

**Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench at Ahmedabad**

REGIONAL BENCH- COURT NO. 3

Excise Appeal No. 11999 of 2016- DB

(Arising out of OIO-BHR-EXCUS-COM-63-2016-17 dated 30/08/2016 passed by Commissioner of Central Excise and Service Tax-Bharuch)

Zcl Chemicals Limited

Plot No. 3102/B,
Gidc, Ankleshwar
Bharuch, Gujarat

.....Appellant

VERSUS

C.C.E-Bharuch

Vadodara-II,Gst Bhavan,Subhanpura,Vadodara
Vadodara, Gujarat - 390023

.....Respondent

APPEARANCE:

Shri Vinay Kansara, Advocate for the Appellant

Shri Ajay Kumar Samota, Superintendent (AR) for the Respondent

**CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
HON'BLE MEMBER (TECHNICAL), MR. RAJU**

Final Order No. A/ 12445 /2023

DATE OF HEARING: 04.10.2023
DATE OF DECISION: 03.11.2023

RAMESH NAIR

The issue involved in the present case is that whether the cenvat credit availed by the appellant can be denied on the following grounds: -

- 1 On the input service invoice the Mumbai address is mentioned whereas the credit was taken by the appellant in their factory address which is different from the Mumbai address.
2. There is no nexus between the input services in question and manufacturing of the final product.
2. Shri Vinay Kansara, Learned Advocate appearing on behalf of the Appellant submits that as regard the dispute about the address on the invoice the allegation is absolutely incorrect for the reason that the appellant have taken the credit on ISD invoice whereas the department has considered the credit on the invoice received by their head office at Mumbai

which obviously bear the name of Mumbai office, Since the credit was taken on the ISD invoice the entire basis for denial of credit is incorrect.

2.1 As regard the allegation that there is no nexus between the input services and manufacturing of the final product he submits that this issue is no longer res- integra as in respect of all the input services in question, the Tribunal in one or more judgments allowed the cenvat credit holding that there is anexus between the input services and manufacturing of the final product. He has given the service wise judgment compilation which is as under:-

- Doshion Ltd – 2013 (288) ELT 291 (Tri.Ahmd)
- CCE vs. Dashion Ltd – 2016 (41) STR 884 (Guj.)
- TVS Motor Company Ltd – 2011-TIOL-455-CESTAT-MAD
- Ecof Industries Pvt Ltd – 2010 (17) STR 515 (T)
- RMZ Infotech Pvt Ltd – 2022 (64) GSTL 599 (Tri. Bang)
- CCE vs. Apar Industries Ltd – 2010 (20) STR 624 (Tri.Ahmd)
- CCE vs. Apar Industries Ltd – 2011 (23) STR J194 (Guj.)
- Maruti Suzuki India Ltd – 2017 (47) STR 273 (Tri. Chan)
- Adani Port & Special Economic Zone Ltd - 2016 (42) STR 1010 (Tri. Ahmd)
- Rallis India Ltd – CESTAT Order No. A/11592/2023 dated 21.07.2023
- CCE vs. Wipro Ltd – 2018 (10) GSTL 172 (Mad.)
- Sri Rama Vilas Services Ltd - 2017 (3) GSTL 24 (Mad.)
- LG Polymers India Pvt Ltd - 2017 (5) GSTL 89 (Tri. Hyd)
- Ahlcon Parenterals (I) Ltd - 2022 (65) GSTL 360 (Tri.Del)
- Balkrishna Industries Ltd – 2022 (65) GSTL 247 (Tri. Del)
- Bombay Market Art Silk Co.- Op (Shops & Warehouse) Society Ltd – 2022 (65) GSTL 86 (Tri. Ahmd)
- Pushpendra Kumar Jain - 2020 (37) GSTL 327 (Tri.Ahmd)

- Mercedes Benz Research & Dev. India P. Ltd - 2017 (49) STR 227 (Tri, Bang)
- RMZ Infotech Pvt Ltd – 2022 (64) GSTL 599 (Tri. Bang)

2.2 He also invited our attention to ISD Invoices and reconciliation of all the services and credit there on.

2.3 He further submits that the demand was raised by invoking extended period which is not legal; and correct for the reason that the appellant has not suppressed any fact from the department. The entire detail of availment of Cenvat Credit in question was in the knowledge of the department. The present dispute has arisen out of the appellant audit report. Therefore, there is no suppression of fact with intent to evade of payment of duty. Accordingly, the demand is not sustainable on the ground of limitation also.

3. Shri Ajay Kumar Samota, Learned Superintendent (AR) appearing on behalf of the Revenue reiterates the finding of the impugned order.

4. We have carefully considered the submission made by both sides and perused the records. We find that the Adjudicating Authority has denied the credit on the ground that the input service invoices bear the name of appellant's Mumbai office. In this regard on going through the ISD invoices and the submission made by the learned counsel we find that the entire allegation in the Show cause notice is incorrect in as much as the appellant claimed that the cenvat credit was taken on ISD invoice. It appears that the Adjudicating Authority has not considered the ISD invoices, if it is found that the appellant has taken the credit not on the basis of invoices issued to their Mumbai office but on the ISD invoice which are obviously bearing the name and address of the appellant factory, the appellantis premia facie eligible for credit.

4.1 As regard the nexus of input service in question with the manufacturing activity of the appellant, we find that on the basis of various

judgments cited by the appellant above the credit cannot be denied on the ground of nexus as the similar issue has been considered in various judgments and the credit was allowed. The appellant also made out the strong case on limitation in the facts of the present case. We are therefore of the view that the entire matter needs to be reconsidered by the Adjudicating Authority keeping in mind our above observation.

5. Accordingly, we set aside the impugned order and allow the appeal by way of remand to the Adjudicating Authority.

(Pronounced in the open court on 03.11.2023)

RAMESH NAIR
MEMBER (JUDICIAL)

RAJU
MEMBER (TECHNICAL)

Neha