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

REGIONAL BENCH- COURT NO.3

Excise Appeal No. 10395 of 2018

(Arising out of OIA-CCESA-SRT-APPEAL-PS-97-2017-18 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

M/s. Aims Industries Ltd .....**Appellant**
Plot No. 7101 & 720, Road No., 55, G.I.D.C., Sachin,
SURAT, GUJARAT

VERSUS

C.C.E. & S.T.-Surat-i ......**Respondent**
New Building...Opp. Gandhi Baug,
Chowk Bazar, Surat,
Gujarat-395001

APPEARANCE:
Sh. Dhaval Shah, Advocate for the Appellant
Sh. G. Jha, Authorised representative for the Respondent

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

Final Order No. A/ 11139 /2019

DATE OF HEARING: 12.07.2019
DATE OF DECISION:12.07.2019

RAMESH NAIR

The issue involved is that whether the appellant is entitled for cenvat credit in respect of man power recruitment and supply agency service which was used for unloading of their final product i.e. Gas Cylinder at the customer place.

2. Sh. Dhaval Shah, Ld. Counsel appearing on behalf of the appellant submits that the sale is on FOR basis. The cost of the man power recruitment supply agency service is borne by them, therefore, it deemed to be included in the assessable value on which excise duty was discharged, therefore, they are entitled for cenvat credit. He submits that the agreement with the service provider was submitted before the adjudicating authority. He submits that regarding the nature of transaction, he submitted agreement with the buyer of the final product which was not considered properly by the lower authority.

3. Sh. G. Jha, Ld. Superintendent (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order.

4. I have carefully considered the submission made by both the sides and perused the records. I find that the cenvat credit was not denied on the ground that the services was received beyond the place of removal. As per the submission of the Ld. Counsel the sale is on FOR basis and the cost of service received by them is included in the total assessable value. These facts can be ascertained only from the sale agreement of the appellant with the buyer. There is no finding by the lower authority on these aspects which can be verified from the sale agreement, therefore, the matter needs reconsideration. Accordingly, I set aside the impugned order and remand the matter to the adjudicating authority.

(Dictated & Pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

Neha