CUSTOMS,EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST ZONAL BENCH : AHMEDABAD

REGIONAL BENCH : COURT NO - 3

Excise Appeal No. 165 of 2011-DB
(Arising out of OIA No. SKSS/255/VAPI/2010 dated 02/10/2011 passed by Commissioner of Central Excise, Customs and Service Tax-VAPI)

Perstrop Chemicals India Pvt. Ltd. ...Appellant
Himalaya Industrial Estate, Survey No. 110/2/1, Amli,
Silvassa
Dadra & Nagar Haveli

-Versus-

C.C.E. & S.T.-Vapi ...Respondent
4th Floor...Adharsh Dham Building,
Opp. Town Police Station, Vapi-Daman Road, Vapi
Vapi, Gujarat, 396191

Present For the Appellant : Shri S.J. Vyas, Adv.

Present For the Respondent : Shri L. Patra, Asst. Commr. (AR)

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

FINAL ORDER NO. A/ 11907/2019

Date Of Hearing: 17/09/2019
Date of Decision: 15/10 /2019

RAMESH NAIR

The issue involved in the present case, is that whether the appellant is entitled for cash refund of accumulated CENVAT Credit under Rule 5 of the Cenvat Credit Rules, 2002 lying unutilized due to closure of the factory.

2. Shri S.J. Vyas, Ld. Counsel appearing on behalf of the appellant submits that subsequent to passing impugned order, there are various judgments in the favour of the assessee according to which the appellant is entitled for the refund. He placed reliance on the following judgments:

1. Ishan Copper Pvt. Ltd. 2018 (8) TMI 794 HC Guj
2. Welcure Drugs and Pharmaceuticals Ltd. 2018 (8) TMI 1169 HC Raj
3. Castrol India Ltd.- 2019 (3) TMI 974 Tri Chennai
4. Vibgyor Printing and Packaging- 2019 (2) TMI 78 Tri- Chennai
5. Sri Indra Distillery 2018 (12) TMI 1176 Tri Hyd.
6. Shree Flavours LLP- 2019 (1) TMI 968 Tri Del.
7. Century Copper Road Pvt. Ltd. 2019 (5) TMI 1404 Tri Ahd.

3. Shri L. Patra, Ld. Asst. Commr. (AR) reiterates the findings of the impugned order.

4. We have heard both sides and perused the records. We find that subsequent to passing of order in original and impugned order, law on the issue involved in the present case has evolved and various judgments were passed on the said issue as cited by the Ld. Counsel. Therefore, in our considerate view, the matter needs to be reconsidered once again. We, therefore, set aside the impugned order and remand the matter to the Adjudicating Authority for passing a fresh order after considering all the judgments cited by the Ld. Counsel and comparing the facts involved therein, appeal is allowed by way of remand to the Adjudicating Authority.

(pronounced in the open court on 15.10.2019)

(Ramesh Nair)
Member (Judicial)

(Raju)
Member (Technical)

Diksha