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

REGIONAL BENCH-COURT NO. 3

Excise Appeal No. 10576 of 2014- DB

(Arising out of OIA-VAD-EXCUS-001-APP-495-13-14 dated 15/11/2013 passed by Commissioner of Central Excise, CUSTOMS (Adjudication)-VADODARA-I)

Diamines And Chemicals Ltd **........Appellant**
Plot No. 13, Pcc Area,
P.o. : Petrochemicals,
Vadodara, Gujarat

VERSUS

C.C.E. & S.T.-Vadodara-i **......Respondent**
1st Floor...Central Excise Building,
Race Course Circle,
Vadodara, Gujarat- 390007

APPEARANCE:
Shri, Dhaval K. Shah, Advocate appeared for the Appellant
Shri P. K. Singh, Superintendent (AR) for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
HON'BLE MEMBER (TECHNICAL), MR. C.L.MAHAR

Final Order No. 11690/2023

DATE OF HEARING: 10.07.2023
DATE OF DECISION: 11.08.2023

RAMESH NAIR

The brief facts of the case are that the appellant are engaged in the manufacture of N-Methyl Pyrrolidone on Job-work basis on the input supplied by their principal M/s Alkline Almine Chemical Ltd (M/s AACL for short). The appellant availed the Cenvat Credit on inputs and discharged the duty liability on the finished goods on behalf of M/s AACL. The department has observed that the appellant were collecting certain amount towards Toll Charges or Conversion Charges, Trial Run Charges and Utility Charges from their principal M/s AACL. It was contention of the department that the said amount collected were flow of additional consideration and the same is liable to be included in the transaction value in terms of Section 4 of Central Excise Act, 1994 but the same were not included in the manufacturing cost.

Accordingly, on the said elements the demand of Central Excise Duty was raised for the period 01.08.2007 to 28.04.2009.

2. Shri Dhaval K. Shah, Learned Counsel, appearing on behalf of the appellant submits that the appellant are paying the duty on the transaction value of the principal, at which the goods are sold by principal manufacturer, which is in terms of Rule 10A of Central Excise Valuation Rules, 2000. Therefore, no any other element can be included over and above the transaction value. In this regard he referred to the invoices issued by the appellant as Job-worker and corresponding sale invoice of the principal and pointed out that the transaction value, on which the Job-work goods were sold was adopted by the appellant for payment of Excise Duty, therefore, there is no short payment of duty.

3. Shri P.K. Singh, Learned Superintendent (AR) appearing on behalf of the revenue reiterates findings of the impugned order.

4. We have carefully considered the submission made by both the sides and perused the record. We find that there is no dispute that irrespective of any value of Job-work goods considering it as not a sale, the appellant have paid the excise duty on the same transaction value, at which the principal manufacturer has sold the goods to unrelated person. For ease of reference Job-worker's invoice and it's corresponding sale invoices issued by the principal manufacturer are Scanned below:

TRIPLICATE FOR ASSESSEE

TAX / RETAIL INVOICE CUM CHALLAN

(Rule 11 of Central Excise Rules, 2002)
Monthly payment of duty Rule 8 of Central Exise Rules 2002

MKT:F:02

DIAMINES AND CHEMICALS LIMITED
(AN ISO 9001 : 2000 COMPANY)
Regd. Off. & Works : Plot No. 13, PCC Area, P.O. : Petrochemicals, Dist. Vadodara - 391 346
Tel : 91-265-2230305, 2230406, 2230929, Telefax : -91-265-2230218, 2230708
Gram : DIAMINES E-mail : info@dacl.co.in Website : www.dacl.co.in
ECC No. AACD5356RXM001 • C.Ex.Reg. No. AAACD5356RXM001 • PLA No. : 5091.00
PAN No. AAACD5356R Dtd. 19-4-99 • Service Tax Reg. No. : GTA/D-III/V-I-57/DCL/05
GST : TIN No. 24191800446 Dtd. 1-7-2002 • CST : TIN No. 24691800446 Dtd. 2-11-1976

INVOICE CUM CHALLAN NO. **Excise Inv;AACL29**	Dated **4-Mar-2008**
Delivery Order No. **022/Bharat Insecticides Ltd**	Terms of Payment **60 days**
Excise Invoice No. & Date **AACL-29/04.03.2008**	Other Reference **Docs : Thru : AACL, Vashi**
Buyer's Order No. **RAWKTH/423/01.03.08**	Dated **1-Mar-2008**
Lorry Receipt No. / Vehicle No. **LR : BRL-43 (RJ-07-1G-0511)**	Dated **4-Mar-2008**
Despatch Thru : **Jet Roadlines Corporation**	Destination **Door Delivery**

Consignee

Bharat Insecticides Limited.,
Industrial Area, SIDCO, Kathua-184 101 (J&K),
ECC AAAC-B-1111-C-XM002
C/o. Alkyl Amines Chemicals Ltd., Plot No : 13,
P.O Petrochemicals, Dist; Baroda-391 346

Buyer (If other than consignee)

Bharat Insecticides Limited.,
506, Vikram Tower, Rajendra Palace,
New Delhi-110 008 ECC AAAC-B-1111-C-XM002
C/o. Alkyl Amines Chemicals Ltd., Plot No : 13,
P.O Petrochemicals, Dist; Baroda-391 346.

Terms of Delivery :
• EX-WORKS • INSURANCE TO BE COVERED BY BUYER / CONSIGNEE

Recommanded transporter.
Freight to pay.

Self Authentication

DIAMINES AND CHEMICALS LTD. P.O. BARODA

Authorised Signatory

No. & Kind of Pkgs.	Description of Goods	Quantity	Rate (Price) Ex. Works (Rs.)	Per	Disc. %	Amount (Rs.)
40x200 kg M.S Drums	**N-Methyl Pyrrolidone (S.H.2933 79 00)** 14% (under 2933 79 00) *40x200 Kg M.S.DRUMS*	**8,000 kg**	140.00	kg		**11,20,000.00**
	CENVAT-14%(RG23A-II)		14	%		1,56,800.00
	Ed.Cess-2%(RG23A-II)		2	%		3,136.00
	S&HE.Cess-1% (RG23A II)		1 ~~.00~~	%		1,568.00
	Total	**8,000 kg**				**12,81,504.00**

E. & O. E

Amount Chargeable (In Words)
Twelve Lakhs Eighty One Thousand Five Hundred Four Only
Excise Duty Payable (In words)
One Lakh Sixty One Thousand Five Hundred Four Only. (Rs. 1,61,504.00)

Excise Range	I, 5th Floor, C.Ex. & Cus. Bldg, Race Course Circle, Commissionerata, Vadodara-I
Excise Division	IV, 5th Floor, C.Ex.&Cus. Bldg, Race Course Circle, Commissionerate: Vadodara-I
Serial No. in PLA/RG-23	Monthly payment of duty rule-8
Date & Time of Invoice	4-Mar-2008 at 18:45
Date & Time of Removal	4-Mar-2008 at 20:30

Buyer's TIN/Sales Tax No. : CST:5101178/216/GST/01.02.2005, TIN:1641101072

DECLARATION :
Certified that the particulars given above are true and correct and the amount indicated represents the price actually charged and that there is no flow of additional consideration directly or indirectly from the buyer.
TERMS & CONDITIONS : 1) 24% p.a. interest will be charged for delayed payment beyond credit period. 2) Penalty & other charges incurred due to delay in submission of 'C' form and other statutory forms (wherever applicable) will be charged to your account.

For Diamines And Chemicals Ltd.

Signature of Registered Person or his authorised Agent

SUBJECT TO VADODARA JURISDICTION

Material received in good condition & order

A.S. Chaudhry (Carriers)

TAX/RETAIL INVOICE CUM CHALLAN

ALKYL AMINES CHEMICALS LIMITED

Plot No. 13, P.O. Petrochemicals, P.C.C. Area, Vadodara 391346

(Regd.Office: 401/407 Nirman Vyapar Kendra, Sector 17, Vashi, Navi Mumbai 400703)

Invoice No. AACL-29 Inv. Date 04.03.08

VAT TIN NO : 24191800832 dated 7.3.2007

CST TIN NO: 24691800832 dated 7.3.2007

LR :NO : BRL-43/04.03.08 of Jet Roadlines Corporation

TO	Consignee Address	Delivery at :	Mailing Address
BHARAT INSECTICIDES LIMITED 1506, VIKRAM TOWER, RAJENDRA PALACE, NEW DELHI - 110008 (INDIA)	BHARAT INSECTICIDES LIMITED INDUSTRIAL AREA , SIDCO KATHUA - 184101 (J& K) Phone No. 0186 - 3232134	BHARAT INSECTICIDES LIMITED INDUSTRIAL AREA , SIDCO KATHUA - 184101 (J& K) Phone No. 0186 - 3232134	BHARAT INSECTICIDES LIMITED 1506, VIKRAM TOWER, RAJENDRA PALACE, NEW DELHI - 110008 (INDIA)

CST TIN 5101178/21 9/GST/DTD 01.02.2005

VAT TIN 1.641E+09

P.O. No. RAWKTH/423

P.O. Date 01.03.2008

Sr.No	Item Description	NO OF PACKS	QTY PER PACK KGS.	Quantity KGS.	Rate Per Kg.	Value
1	N-Methyl Pyrrolidone (NMP)	40	200	8000	140.00	1120000.00
		Cenvat @14%				156800
		Education Cess on Cenvat@2%				3136
		S&H Ed.Cess @1% on Cenvat				1568.00
		(As per Excise Invoice No. AACL dated) of Diamines and Chemicals Ltd.)				
		Insurance CST				
		Taxable Amount for CST				1281504.00
		CST @ 3% Against form "C"				38445.12
		Freight				
		Rounding Off.				-0.12
		Invoice Total				**1319949.00**

Amount in words : Rs. Thirteen Lacs Nineteen Thousand Nine Hundred Forty Nine only

Payment Terms: 60 Days form the Date of Invoice

(24% interest will be charged for delayed payment beyond credit period)

Penalty & other charges incurred due to delay in submission of C form and other statutory forms(wherever applicable) will be charged to your account.

"We hereby declare that our registration certificate under the Gujarat Value Added Tax Act,2003 is in force on the date on which the sale of the goods specified in this tax invoice is made by us and that the transaction of sale covered by this tax invoice has been effected by us and it shall be accounted for in the turnover of sales while filing of return and the due tax,if any,payable on the sale has been paid or shall be paid.

SUBJECT TO MUMBAI JURISDICTION

For ALKYL AMINES CHEMICALS LTD

Authorised Signatory

Alkyl Amines Chemicals Ltd. Baroda Pin.391346

From the above invoices, it can be seen that the Job-worker's invoice reference was given in the sale invoice of the principal manufacturer and it is observed that in both the invoices the assessable value is the same transaction value, at which the goods were sold by the principal manufacturer.

4.1 In this fact the valuation of the goods is governed by Rule 10A of Central Excise Valuation Rules, 2000, which is reproduce below:

> *"[RULE 10A. Where the excisable goods are produced or manufactured by a job-worker, on behalf of a person (hereinafter referred to as principal manufacturer), then, -*

(i) in a case where the goods are sold by the principal manufacturer for delivery at the time of removal of goods from the factory of job-worker, where the principal manufacturer and the buyer of the goods are not related and the price is the sole consideration for the sale, the value of the excisable goods shall be the transaction value of the said goods sold by the principal manufacturer;

(ii) in a case where the goods are not sold by the principal manufacturer at the time of removal of goods from the factory of the job-worker, but are transferred to some other place from where the said goods are to be sold after their clearance from the factory of job-worker and where the principal manufacturer and buyer of the goods are not related and the price is the sole consideration for the sale, the value of the excisable goods shall be the normal transaction value of such goods sold from such other place at or about the same time and, where such goods are not sold at or about the same time, at the time nearest to the time of removal of said goods from the factory of job-worker;

(iii) in a case not covered under clause (i) or (ii), the provisions of foregoing rules, wherever applicable, shall mutatis mutandis apply for determination of the value of the excisable goods :

Provided that the cost of transportation, if any, from the premises, wherefrom the goods are sold, to the place of delivery shall not be included in the value of excisable goods.

Explanation. - For the purposes of this rule, job-worker means a person engaged in the manufacture or production of goods on behalf of a principal manufacturer, from any inputs or goods supplied by the said principal manufacturer or by any other person authorised by him.]"

From the above Rule 10A(i), it is clear that in respect of Job-work goods, when the same is sold by the principal manufacturer, the transaction value of the said goods sold by the principal manufacturer shall be adopted by the Job-worker for payment of Excise Duty.

4.2 In view of the clear provision for valuation of Job-work goods, as provided in the above Rule 10A(i), there is no reason to add any other element in the transaction value. Therefore, we are of the view that the demand in the present case is completely illegal and incorrect and without support of any law.

5. Accordingly, we set aside the impugned order and allow the appeal.

(Pronounced in the open court on 11.08.2023)

RAMESH NAIR
MEMBER (JUDICIAL)

C.L.MAHAR
MEMBER (TECHNICAL)

Raksha