Customs, Excise & Service Tax Appellate Tribunal

West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO.3

Excise Appeal No. 11357 of 2018

(Arising out of OIA-CCESA-SRT-APPEAL-PS-383-384-2017-18 dated 20/12/2017 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

Nandan Petrochem Ltd ....**Appellant**

Survey No. 96/1, Village-Falandi, Near Jbf Industries, Athola,
Silvassa, Dadra & Nagar Haveli (Ut)

VERSUS

C.C.E. & S.T.-Surat-I ....**Respondent**

New Building...Opp. Gandhi Baug,
Chowk Bazar,
Surat,Gujarat- 395001

With

Excise Appeal No. 11364 of 2019

(Arising out of OIA-CCESA-SRT-APPEAL-PS-383-384-2017-18dated 20/12/2017 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

Nandan Petrochem Ltd ....**Appellant**

Survey No. 96/1, Village-Falandi, Near Jbf Industries, Athola,
Silvassa, Dadra & Nagar Haveli (Ut)

VERSUS

C.C.E. & S.T.-Surat-I ....**Respondent**

New Building...Opp. Gandhi Baug,
Chowk Bazar,
Surat,Gujarat- 395001

APPEARANCE:

Shri Jigar Shah, Advocate for the Appellant
Shri Sharad Airan, Assistant Commissioner (AR) for the Respondent

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

Final Order No. A/11680-11681/2021

DATE OF HEARING: 13.04.2021
DATE OF DECISION: 28.04.2021

RAMESH NAIR

The issue involved in the present case is that whether the appellant is entitled for Cenvat Credit in respect of Outward Transport Service which is used for transportation of goods from the factory of the appellant to their various depots.

2. Shri Jigar Shah, Learned Counsel appearing on behalf of the appellant submits that it is admitted even by the Adjudicating Authority that the transportation service in question is from the factory gate to depot. Therefore, the outward transportation service was used up to the place of removal. He submits that moreover the valuation of the goods is on MRP basis under section 4A of Central Excise Act, 1944, for this reason also the Cenvat credit on outward transportation service in respect of goods supplied under MRP based valuation is admissible. He placed reliance on the following Tribunal's Judgments:

- CCE Vs Ultra Tech Cement Ltd 2020- VIL-597-GUJ- CE
- Sanghi Industries Ltd Vs CCE 2019 (369) ELT 1424 (T)

The aforesaid judgment was upheld by the Hon'ble High court.

3. Shri Sharad Airan, Learned Assistant Commissioner (Authorized Representative) appearing on behalf of the revenue reiterates the finding of the impugned order.

4. I have carefully considered the submission made by both the sides and perused the records. There is no dispute that in the present case Outward Transportation Service was used for transportation of goods from the factory of the appellant to their own depot. In this case even as per section 4 of the Central Excise Act, the place of removal is the depot and not the factory gate. Moreover, the valuation of goods is on MRP basis. In such circumstances as per the plain reading of the Input Service definition Cenvat Credit on Outward Transportation Services is admissible up to the place of removal. In the present case depot being the place of removal, outward transportation service was used undisputedly up to the place of removal. The judgment of this tribunal cited by the learned Counsel is directly applicable in the facts of the present case.

5. Therefore, the appellant are entitled for the Cenvat Credit in respect of the Outward Transportation Service. The impugned order is set aside and appeals are allowed.

(Pronounced in open court on 28.04.2021)

(RAMESH NAIR)

MEMBER (JUDICIAL)

Geeta