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

REGIONAL BENCH- COURT NO.3

Excise Appeal No.440 of 2012

(Arising out of OIA-CS-18-SURAT-II-2012 dated 23/02/2012 passed by Commissioner of Central Excise, Customs and Service Tax-SURAT-II)

Anita Synthetics Pvt Ltd ....**Appellant**
Block No. 46, H/2/B/A, Pipodara, Tal-Mangrol,
SURAT, GUJARAT

VERSUS

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

APPEARANCE:
Shri Willingdon Christian, Advocate for the Appellant
Shri Vinod Lukose, Superintendent (AR) for the Respondent

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

Final Order No. A/ 12256 /2021

DATE OF HEARING: 21.06.2021
DATE OF DECISION: 21.06.2021

RAMESH NAIR

Shri Willingdon Christian, learned counsel appearing on behalf of the appellant submits that the present appeal was filed against Order-In-Appeal No.CS/18/SURAT-II/2012 dated 23.02.2012 passed by the Commissioner (Appeals) whereby, he remanded the matter with the following observations:

> *"5.2… in the present appeal, the original adjudicating authority failed to examine the appellant's claim of use of indigenous raw material by not allowing the sufficient opportunity to produce the relevant documents in support of their claim, since the documents/registers seized from them vide panchnama dated 30.11.1999 drawn by Anti-Evasion Baroda and panchnama dated 16.02.2000 drawn by HPIU-I Preventive, Surat were not given to them and ex-parte order was passed in absence of these documents/ registers. This seems to be violation of principals of natural justice and directions of Hon'ble CESTAT in which they have directed that both the sides are at liberty to produce evidence in support of their contention.*
>
> *5.3… In view of the above said Circular, this office has tried to investigate the matter and issued letter dated 02.12.2008, 30.07.2009, 15.09.2009, 09.10.2009, 10.11.2009, 20.01.2011, 07.09.2011, 19.09.2011, 14.10.2011, 18.10.2011, 23.12.2011 and 16.01.2012 to Additional Commissioner, Central Excise, Surat-II, who was the adjudicating authority in this case and other authorities*

of Surat-I and II, to provide the required documents to the appellants which were required documents were not provided to the appellant. In these circumstances, the appeal cannot be decided at this stage.

5.4 In view of the above discussions, I don't have any other option but to remand the case to Original Authority for de-novo Adjudication."

1.1 He submits that in the mean time, learned adjudicating authority under took re-adjudication and passed Order-In-Original No.21/JC-OP/DEM/Div-I/SRT-II/2015 dated 17.03.2015 the order came to be upheld by Order-In-Appeal No. CCESA-VAD (APP-II)/VK-193/2016-17 dated 08.08.2016 which has been challenged by the appellant vide Appeal No. E/12017/2016-DB. As a result, the present appeal becomes infructuous therefore, he prays for withdrawal of the appeal.

2. Shri Vinod Lukose, learned Superintendent (Authorized Representative) appearing on behalf of the revenue has no objection if the appeal is disposed as withdrawn.

3. Accordingly, the appeal is disposed of as withdrawn as prayed for by the applicant.

(Dictated & Pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Mehul