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

REGIONAL BENCH- COURT NO.3

Excise Appeal No.11325 of 2018

(Arising out of OIA-VAD-EXCUS-001-APP-891-2017-18 dated 20/02/2018 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I

Zydex Industries **......Appellant**

378-a, Ecp Canal Road, Village-luna, Taluka-padra,
Vadodara, Gujarat

VERSUS

C.C.E. & S.T.-Vadodara-i **.........Respondent**

1st Floor...Central Excise Building,
Race Course Circle,
Vadodara, Gujarat-390007

APPEARANCE:

None Appeared for the Appellant
Sh. Dharmendra Kanjani , Superintendent (AR) for the Respondent

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

Final Order No. A/ 12295 /2021

DATE OF HEARING/ DECISION : 29.07.2021

RAMESH NAIR

When the matter was called out none appeared on behalf of the appellant. From record, it is observed that the matter has been listed number of times on dated. 08.03.2019,12.04.2019,10.05.2019,12.07.2019 14.02.2020,03.06.2021. On the conduct of appellant it appears that they are not serious about pursuing their case, therefore there is no option except to take up the matter to decide on merit, in the light of the Hon'ble Supreme Court judgment in the case of BALAJI STEEL RE-RELLING MILLS- 2014 (310) E.L.T. 209 (S.C), in the case of ex-parte order it should be decided on merit Accordingly, I take up this appeal for disposing the same on merit.

2. The issue involved in the present case is that whether the appellant is entitled for Cenvat Credit on outward transportation.

3. Shri Dharmendra Kanjani, Learned Authorized Representative appearing on behalf of the revenue submits that the appellant have not attended the hearing either before the Original Authority or before the Commissioner (Appeals) as they have explicitly waived the personal hearing.

3.1 He submits that the though the appellant has made the submission that the sale is on FOR basis but no documentary evidence was submitted either before the Original Authority or before the Commissioner (Appeals) therefore, in absence of any document credit cannot be allowed on the pretext of sale being FOR.

4. I have carefully considered the submission made by Learned Authorized Representative and perused the records. I find that though the appellant has claimed that the sale is on FOR basis but no documentary evidence has been submitted. It is also observed that the appellant have waived the personal hearing before the Adjudicating Authority as well as the Commissioner (Appeals). This further shows that the appellant has nothing more to submit in support of their claim.

3.1. This Tribunal has decided in the case of ULTRA TECH CEMENT LTD. and SANGHI INDUSTRIES LTD. Vide Final Order No. A/10374-10375/2019 dtd.24.10.2018 reported in 2019 (369) E.L.T. 1424 (Tri.-Ahd.) which has been upheld by the Hon'ble High Court that in case of FOR sale the Cenvat Credit on Outward Freight is admissible but in the present case since no documentary evidence has been submitted it cannot be accepted that the sale is on FOR basis.

4. In this circumstances, I am of the view that appellant is not entitled for Cenvat Credit. Accordingly, the impugned order is upheld. Appeal is dismissed.

(Dictated & Pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

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