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

REGIONAL BENCH- COURT NO. 3

Excise Appeal No. 11422 of 2018-SM

(Arising out of OIA-VAD-EXCUS--002-APP-909-2017-18 Dated- 28/02/2018 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I)

Rallis India Ltd ....**Appellant**
Plot No. 3301, Gidc, Ankleshwar,
Bharuch, Gujarat

VERSUS

C.C.E. & S.T.-Vadodara-ii ....**Respondent**
1st Floor... Room No.101,
New Central Excise Building,
Vadodara, Gujarat- 390023

APPEARANCE:
Shri. Vinay Kansara, Advocate for the Appellant
Shri R.K Bhaskar (Superintendent) Authorised Representative for the Respondent

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

Final Order No. A/ 12327 /2021

DATE OF HEARING: 24.08.2021
DATE OF DECISION:24.08.2021

RAMESH NAIR

The issue involved is that whether the appellant is entitled for the Cenvat Credit in respect of service tax paid on outward transportation of finished goods upto the depot of the appellant when the valuation was done under section 4A of Central Excise Act.

2. Shri Vinay Kansara, Learned counsel appearing on behalf of the appellant submits that the Learned Commissioner denied the credit on the ground that since the goods are valued under section 4A, factory gate should be considered as a place of removal on outward transportation beyond the factory gate, Cenvat credit is not admissible. He submits that on the identical facts in the appellant's own case vide order No A/13283/2017 dated 31.10.2017 the credit was allowed. Therefore, the issue is no longer res-Integra.

3. Shri R.K Bhashkar, Learned Superintendent (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. I find that the facts in the present case as well as in the identical case which was decided by this tribunal vide order dated 31.10.2017 are absolutely identical. Considering the Chhattisgarh High Court decision in the case of Ultratech Cement and Rallis India Limited of this tribunal and board circular dated 02.02.2016 held that whether valuation is done under 4 or 4A of Central Excise Act, the depot being place of removal the credit upto depot on outward transportation is admissible. The decision of tribunal dated 31.10.2017 is reproduced below:

> *"Heard both sides.*
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> *2. This appeal is filed against OIA-CCESA-VAD-APP-II-MM-103-2016-17 dt 8/06/2016 passed by the Commissioner of Central Excise, Customs and Service Tax (Appeals) -VADODARA-I.*
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> *3. The short issue involved in the present case is: whether the appellants are eligible to credit on Service Tax Paid on "Outward GTA Services" from the factory to depots when the goods are subjected to assessment on MRP basis under Sec 4A of the CEA, 1944.*
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> *4. The Ld Advocate for the appellant Shri V Kansara, submits that the issue is covered by the judgment of Hon'ble High Court of Chhattisgarh in the case of Ultratech Cement Ltd vs CCE, Raipur 2014(35)STR.642 (Chat.), Tribunal judgment in LAO MORE Biscuits Pvt Ltd vs CCE - 2017 (47))STR .267 and the Board's Circular dated 02.02.2006. It is his contention that in view of the Para-4 of the said circular, the credit of Service Tax paid on the Outward Freight in case of clearances upto the place of depots is admissible, irrespective of the fact, whether the goods are chargeable to excise duty at specific rate or ad valorem rates on the basis of valuation under Sec 4 or 4A of the CEA, 1944.*

4. Ld AR for the Revenue reiterated the findings of the Ld Commissioner (Appeals)

5. I find that the issue is covered by the judgment of the Hon'ble High Court at Chhattisgarh in Ultratech Cement Ltd's case(supra) and also by the decision of this Tribunal the case of LAO MORE Biscuits Pvt Ltd's case(supra). In the result, the impugned order is set aside and the appeal is allowed with consequence of relief, if any, as per law."

4.1 Considering the judgment of this tribunal dated 31.10.2017, I am of the view that the issue is no more under dispute and has been settled as there is no appeal filed by the revenue as per record of this appeal.

5. Accordingly, the Cenvat credit on outward transportation upto depot is admissible. The Impugned order is set aside. Appeal is allowed.

(Dictated and Pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

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