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

REGIONAL BENCH- COURT NO.3

Excise Appeal No.10627 of 2019

(Arising out of OIA-VAD-EXCUS-002-APP-562-2018-19 dated 21/12/2018 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I)

Paushak Limited **........Appellant**
Panelev, Post Tajpura
Taluka Halol
Panchmahal, Gujarat

VERSUS

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

APPEARANCE:
Shri Saurabh Dixit, Advocate for the Appellant
Shri J.A. Patel, Superintendent (AR) for the Respondent

CORAM: HON'BLE MEMBER (TECHNICAL), MR. RAJU
Final Order No. A/ 12498 /2021

DATE OF HEARING: 11.11.2021
DATE OF DECISION: 11.11.2021

Raju

This appeal has been filed by M/s. Paushak Limited against denial of Cenvat Credit on GTA Service used for outward transportation up to the buyer’s premises.

02. Learned counsel pointed out that the Order-In-Original in Para 3.3.3. records as follows:

> *“3.3.3. I had gone through the documents furnished by the assessee on random basis viz. Order No.28010121 dated 20.03.2017, 28010020 dated 10.02.2017, 28010018 dated 09.02.2017, 2801007 dated 08.02.2017, 28010250 dated 06.06.2017, 28010217 dated 16.05.2017, 28010017 dated 09.02.2017 & 28010015 dated 09.02.2017. I find that in all these orders Incoterms for freight was mentioned as FOR (Free On Road) Factory.”*

2.1 In view of above, he pointed out the fact that goods are delivered FOR destination is not in dispute. He pointed out that in terms of CBIT Circular F.No.116/23/2018-CX-3 the credit should be allowed.

03. Learned DR relied on the impugned order. He pointed out that the Hon'ble High Court of Madhya Pradesh in case of M/S. MAHLE ENGINE COMPONENTS, has denied similar relief relying on the decision of Hon'ble Apex Court in the case of ULTRA TECH CEMENT LTD.-2018-TIOL-42-SC-CX.

04. I have considered the rival submission. I find that the fact that goods are supplied FOR destination is not in dispute. The CBIT Circular dated 8th June, 2018 (supra) clearly holds that in such circumstance credit of outward GTA Services to the factory of buyer would be admissible. This circular has been passed after considering the decision of Hon'ble Apex Court in case of ULTRA TECH CEMENT (supra).

4.1 The decision of Hon'ble High Court of Madhya Pradesh in M/S. MAHLE ENGINE COMPONENTS has been passed in similar circumstances. However, in the said case the attention of Hon'ble High Court was not brought to the circular issued by CBIT dated 8th June, 2018.

05. In the above facts and circumstances, since the revenue itself has conceded the issue in favour of the appellant by issuing the circular, the appeal is allowed and the impugned order is set aside.

(Dictated & Pronounced in the open court)

(RAJU)
MEMBER (TECHNICAL)

Mehul