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

REGIONAL BENCH- COURT NO.3

Excise Appeal No.10936 of 2019

(Arising out of OIA-VAD-EXCUS-002-APP-627-2018-19 dated 27/02/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I)

Adama India Pvt Ltd **......Appellant**
Plot No D-2/Ch-1 Gidc Dahej
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.J. A Patel, Superintendent (Authorized Representative) for the Respondent

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

Final Order No . A/ 10034 /2022

DATE OF HEARING: 03.01.2022
DATE OF DECISION: 03.01.2022

RAMESH NAIR

The brief facts of the case are that the appellant have mistakenly paid excise duty for which they sought refund from the sanctioning authority. The refund was rejected and was upheld on the ground that the documents were not submitted. Therefore, the present appeal was filed by the appellant.

2. Shri. Vinay Kansara, Learned counsel appearing on behalf of the appellant submits that as regard the refund of Rs. 13,722/- the goods were cleared to depot and in the invoices wrong amount of duty was mentioned therefore, there was excess payment in respect of refund claim of Rs. 13,81,902/-. The invoice No 372010191 dated 25.04.2017 was cancelled. The same was intimated to the Range Office vide letter dated 28.04.2017 but oversightly for the monthly payment of duty the amount of duty of the said invoice was included thus, this is an excess payment. The excise duty was paid twice on the same invoice therefore, there was an excess payment.

He submits that there are no disputes about the excess payment even by the department but the refund claim was rejected only on the procedural requirement.

3. Shri. J.A Patel, Learned Superintendent (AR) appearing on behalf of the revenue reiterates the finding of the impugned order.

4. We have carefully considered the submissions made by both the sides and perused the records. There is no dispute that the appellant has paid excess duty due to mistake such as double payment of duty, addition of duty against the cancelled invoice and wrong mentioned of amount in the invoice etc. The adjudicating authority rejected the refund on the ground that the appellant has not submitted the documents. Learned counsel invited my attention to the adjudication order wherein it was clearly recorded that all the documents sought for by the department has been submitted which is clearly mentioned in the reply to SCN at para 11 and the same has also been mentioned in para 5.5 of the OIO . Therefore the main ground of the rejection that document has not been submitted is of no basis as surprisingly after recording the details of the documents submitted by appellant at para 5.5 the Adjudicating Authority n the finding mentioned contrary that the documents were not submitted.

5. I am of the view that when there is no dispute that there is excess payment of duty due to bonafide mistakes the refund must be granted to the appellant after verifying the facts as regard unjust enrichment. Therefore, the matter needs to be reconsidered by the Adjudicating authority. Accordingly I set aside the impugned order and remand the matter to the Adjudicating Authority for passing a fresh order after considering the documents already submitted by the appellant. Needless to say that the appellant shall be given the proper opportunity of hearing and also for filing of additional documents and submissions, if any required.

6. Appeal is allowed by way of remand to the Adjudicating Authority.

(Dictated & pronounced in the open court)

RAMESH NAIR
(MEMBER JUDICIAL)

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