

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

Appeal No. E/12422/2018-SM

[Arising out of OIA No. OIA-CCESA-SRT-APPEALS-PS-916-2017-18 dated 28.03.2018 passed by C(A) Surat-i]

M/s N R Agarwal Industries Limited Appellant

Vs

C.C.E.& S.T. Surat-i Respondent

Represented by:

For Appellant: Shri. S. Suriyanarayanan (Advocate)

For Respondent: Shri. S.N. Gohil (A.R.)

CORAM:

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

Date of Hearing/Date of Decision: 11.12.2018

Final Order No. A/ 12936 /2018

Per: Ramesh Nair

The issue involved is the eligibility of cenvat credit in respect of rent-a-cab service.

2. Sh. S. Suriyanarayan Ld. Counsel appearing on behalf of the appellant submits that a certificate has been obtained from the Managing Director wherein it was certified that the vehicle was taken on rent by the Company and given to the Managing Director for official use, therefore, the credit is admissible. On the query from the bench, he clarified that this Certificate was not submitted before the Original Authority, however it was submitted before the Commissioner (Appeals) who has not considered the same. He also placed reliance on the following judgments:

- CCE vs Suzuki Motorcycle India Pvt. Ltd. 2017 (47) STR 85 (tri. Chen.)
- Reliance Industries Ltd. 2016 (45) STR 383 (Tri-Mum)

3. Sh. S. N. Gohil, Ld. Superintendent (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order. He submits that the certificate which is a vital evidence produced first time before this Tribunal, both the lower authorities have considered the same, therefore, the matter should go back to the adjudicating authority.

4. On careful consideration of the submission made by both the sides and perusal of records, I find that the only evidence i.e. certificate given by the Managing Director of the Company has not been considered by the lower authorities, despite, the same was submitted before the Commissioner (Appeals). In this position, I am of the view that matter should go back to the adjudicating authority to decide fresh after considering the Certificate submitted by the Managing Director. Accordingly, the impugned order is set aside and the appeal is allowed by way of remand to the adjudicating authority for passing a fresh order.

(Dictated and Pronounced in the open court)

(Ramesh Nair)
Member (Judicial)

Neha