

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

Appeal No. E/12260/2018-SM

[Arising out of OIA-VAD-EXCUS-001-APP-162-2018-19 dated 29/06/2018 passed by Commissioner
(Appeals) Commissioner of Central Excise, Customs and Service Tax-Vadodara-I]

M/s. Pakona Engineers India Pvt Ltd

Appellant

Vs

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

Respondent

Represented by:

For Appellant: Mr. Dhaval Shah (Advocate)

For Respondent: Mr. A. Mishra (A.R.)

CORAM:

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

Date of Hearing/Decision:13/12/2018

Final Order No. A/ 12940 /2018

Per: Ramesh Nair

The issue involved is admissibility of Cenvat Credit in respect of Courier service.

2. Shri. Dhaval Shah, Ld. Counsel appearing on behalf of the appellant submits that on the credit was denied on the Courier Service ground that the Service was used for clearance of goods from the place of removal. He submits that the Courier service was used not only for the goods cleared for final product but also for sending and receipt of documents. Therefore, firstly the entire credit on the same ground cannot be denied. Secondly, he submits that even though from 01.04.2008 there is an amendment in the definition that the services for clearance of goods were eligible up to place of removal. The Courier service does not fall under that Courier services is used in the overall manufacturing capacity, therefore the said amendment does

not adversely affect the eligibility of the Cenvat Credit on Courier service. Without prejudice he further submits that even if it is considered that the service falls under the category of service used for clearance of goods up to place of removal, in that case also the value of the Courier services is included in the value of the final product and excise duty was discharged on such value which is included the Courier charges also, therefore the credit is admissible on this ground also. He submits that up to the period 01.04.2008 the input service in any case covered in terms of unamended definition of inputs services. He placed reliance on the following judgments:

- Ambalal Sarabhai Enterprise Ltd 2016 (45) STR 174 (Guj.)
- Appollo Tyres Limited Vs. CCE & ST, Vadodara. Order No. A/12241/2018
- JSW steel 2018 (4) TMI 660-CESTAT Mumbai
- Balaji Multiflex Pvt. Ltd Vs. CCE & ST, Rajkot. Order No. A/12028-12029/2018
- Rolex Rings Pvt. Ltd & Ors. Vs. CCE & ST, Rajkot. Order No. A/12155-12165/2018
- VED PMC Ltd 2018 (5) TMI 1454-CESTAT Mumbai
- GKN Sinter Metals Pvt. Ltd 2018 (1) TMI 469-CESTAT Mumbai

3. Shri. Amit Kumar Mishra, Ld. Deputy Commissioner (AR) appearing on behalf of the Revenue reiterates the finding of the impugned order.

4. I have carefully considered the submissions made by both the sides and perused the record, I find that as regard the credit on Courier service up to 01.04.2008 is not under dispute as held that the Hon'ble Gujarat High Court in the case of Ambalal Sarabhai Enterprise Ltd. (Supra). Therefore, I

hold that the credit up to the 31.03.2008 is admissible. As regard, the Cenvat Credit on Courier service from 01.04.2008 onwards. Since, Ld. Counsel has made submissions that lower authority has not verified whether the Courier charges is included in the assessable value, I am of the view that the matter needs to be re-considered only on this aspect. Thereafter, to decide the admissibility of the Cenvat Credit on Courier service post on 01.04.2008. The appeal is disposed of in the above terms by way of remand to the adjudicating authority.

(Dictated and pronounced in the open court)

(Ramesh Nair)
Member (Judicial)

Prachi