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

REGIONAL BENCH- COURT NO. 3

Service Tax Appeal No. 11917 of 2019

(Arising out of OIA-CCESA-SRT-APPEAL-PS-064-2019-20 dated- 10/05/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

Navkar Infosys ....**Appellant**
601-602, 6th Floor, Apmc Krushi Bazaar,
Sahara Darwaja, Ring Road, Surat, Gujarat

VERSUS

C.C.E. & S.T.-Surat-I ....**Respondent**
New Building...Opp. Gandhi Baug,
Chowk Bazar,Surat, Gujarat - 395001

APPEARANCE:
Ms. Ashwani Chandrasekaran, Advocate for the Appellant
Mr. Dinesh Prithiani, Assistant Commr. (Authorized Representative) for the Respondent

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

FINAL ORDER NO. A/ 10310 /2022

DATE OF HEARING: 05.04.2022
DATE OF DECISION: 05.04.2022

RAMESH NAIR

The issue involved is that whether the appellant is entitled for cenvat credit on the strength of debit notes issued by the service provider or otherwise.

2. Ms. Ashwani Chandrasekaran, Learned Counsel appearing on behalf of the appellant submits that there is plethora of judgements wherein the cenvat credit on the debit note has been allowed. She placed reliance on the following judgements:

- CCE Jaipur vs Bharti Hexacom Ltd. 2018 (360)ELT 515 (Raj.)
- Elecon Information Technology Ltd. 2014-TIOL-1139-CESTAT-AHM
- Ad-Manum Packaging (P) Ltd. 2017 (346) ELT 142
- Gabriel India Ltd. 2017)48) STR 492 (Tri. Del.)
- Shree Cement Ltd. 2013 (29) STR 77 (Tri.Del.)
- 2015 (39) STR 273 (Tri. Del.) Jaguar & Co. Ltd.

2.1 She also invited my attention to the copy of the debit note wherein she has pointed out that all the details required in terms of Rule 9 are appearing in debit notes, therefore, the debit note is a valid document for availing cenvat credit.

3. Shri Dinesh Prithiani, Learned Assistant Commissioner (Authorized Representative) appearing on behalf of the Revenue reiterates the findings of the impugned order. He also argued as per his written submission made on 04.04.2022. He also placed reliance on the following judgments.

- 2014-TIOL-2086-HC-RAJ-VAT – Panwar Trading Corporation
- 2010 (260) ELT 3 (SC) – CCE vs Hari Chand Shri Gopal
- 2009 (239) ELT 395 (P&H) – SK Foils Ltd. vs CCE, New Delhi
- 2008 (224)ELT 219 (MP) – Executive Engineer (Civil) MPEB vs ACE
- 2014 (305) ELT404 (Mad.) - Usa Agencies Vs CTO

4. I have carefully considered the submission made by both the sides and perused the records.

5. I find that the limited issue to be decided is that whether the assessee can avail the credit on the strength of debit note. This issue is no longer res-integra as the same has been decided in various judgements cited by the appellant. Some of the judgements are reproduced below:

In the case of Ad-Manum Packaging Pvt. Ltd., the Tribunal held as follows:

> **"3.** The submission of the learned Advocate for the appellant is that, even though the credit has been taken on the basis of debit notes these contained all the necessary details which are prescribed to be contained in invoices, under Rule 9 of the Cenvat Credit Rules. He further submits that it has been constantly held by the Tribunal in several cases that the Cenvat credit should not be denied as long as the debit notes cum-bill contained all requisite information as per provision of Rule 9(1) of the Cenvat Credit Rules, 2004. In this connection, he has relied upon the following case laws :-
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> (i) *CCE, Indore* v. *Gwalior Chemicals Industries Ltd.* reported in 2011 (274) E.L.T. 97 (Tri. - Del.);
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> (ii) *Pharmalab Process Equipments Pvt. Ltd.* v. *CCE, Ahmedabad* reported in 2009-TIOL-2215-CESTAT-AHM = 2009 (242) E.L.T. 467 (Tri.-Ahmd.) = 2009 (16) S.T.R. 94 (Tri.-Ahmd.), and

(iii) *Vodafone Essar Spacetel Ltd.* v. *CCE, CUS. & ST, BBSR-I* reported in 2016 (43) S.T.R. 124 (Tri. - Kolkata).

4. The learned DR prays that the matter may be remanded to the Original Authority for carrying out the verification.

5. In the present case the dispute centres on the question whether Cenvat credit may be taken by the appellant on the basis of the debit notes received by them from the service providers. In the case laws cited by the appellant it has been held that the Cenvat credit should not be denied simply on the basis that they are debit notes and are not documents specified under Rule 9(1) of the Cenvat Credit Rules, 2004. It has been further constantly held that as long as such debit notes contained all requisite information as prescribed under Rule 9(1), these should be considered on par with invoices and, hence, credit cannot be denied. In the present case, we find that the Original Authority has gone through the debit notes and has recorded in his order dated 25-3-2010, that these debit notes contained all necessary details and, hence, has allowed such Cenvat credit. I find no reason to disagree with this observation inasmuch as he has carried out verification already in the first place, I find no reason to remand the matter. Accordingly, the impugned order is set aside and the order of the Original Authority is restored. The appeal is allowed."

In the case of Jaguar & co. the Tribunal held as follows:

"8. …..I hold that the debit notes mention all the particulars, which are required to be mentioned in the invoices and the Cenvat credit has been correctly taken by the appellant. The Tribunal in a series of judgments has held that when the debit notes issued by the service provider under Rule 4A of the Service Tax Rules, 1994, mention all the informations required to be mentioned in an invoice, the Cenvat credit on the basis of such debit notes has to be allowed by treating the same as invoices. In view of this, denial of Cenvat credit of Rs. 30,16,390/- is also not sustainable."

In the case of Shree Cement Ltd. (supra), the Tribunal held as follows:

"6. Substance is more important than the format and the doctrine of substance over format is sanction of Rule 9(1)(f) of Cenvat Credit Rules, 2004. Accordingly, when Revenue did not find that the service tax realised through debit note has not gone into treasury, there is no scope to deny relief to the appellant. Added to this, the service provider has realised certain reimbursement of expenses while providing consultancy service in terms of debit note appearing at pages 51 to 55 of appeal folder. Therefore, once assessable value of service provider is intended to include even the reimbursement of expenses, the appellant cannot be denied benefit of Cenvat credit without finding no deposit of service tax by service provider."

6. In view of the above judgements, the appellant are entitled for the cenvat credit on debit note. It is further noted that the debit note has contained all the information such as Name and address of the service provider and service recipient, the registration number of the service provider, the amount of service tax charged to the appellant, description of service etc., Therefore, all the details which is otherwise required to be mentioned in the valid document for cenvat credit are appearing in the debit note, for this reason also the cenvat credit cannot be denied to the appellant. Accordingly, I set aside the impugned order and allow the appeal.

(Dictated & Pronounced in the open court)

RAMESH NAIR
MEMBER (JUDICIAL)

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