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

REGIONAL BENCH- COURT NO.3

Excise Appeal No.12093 of 2017
(Arising out of OIA-VAD-EXCUS-002-APP-306-2017-18 dated 11/08/2017 passed by Commissioner of Central Excise and Service Tax-VADODARA-I)

Gujarat Inseticidies Ltd **.........Appellant**
Plot No 805-806 Gidc, Ankleshwar
Bharuch, Gujarat

VERSUS

C.C.E-Bharuch **.........Respondent**
Vadodara-II,GST Bhavan,Subhanpura,Vadodara
Vadodara, Gujarat- 390023

APPEARANCE:
Shri. Dhaval K Shah, Advocate for the Appellant
Shri Anand Kumar, Superintendent (AR) for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
HON'BLE MEMBER (TECHNICAL), MR. C. L. MAHAR

Final Order No. 11341 /2024

DATE OF HEARING: 10.06.2024
DATE OF DECISION:10.06.2024

RAMESH NAIR

The issue involved in the present case is that whether the appellant is liable to pay duty on the waste and scrap of capital goods.

2. Shri. Dhaval K Shah, Learned Counsel appearing for appellant at the outset submits that the show cause notice was issued without verifying whether the Cenvat Credit on capital goods which have been cleared as waste and scrap was availed or not. He further submits that now the appellant have produced the Chartered Accountant Certificate certifying that the appellant have not taken the Cenvat Credit on capital goods. Therefore, he seeks remand as the same were not produced before the adjudicating authority.

3. Shri. Anand Kumar, Learned Superintendent (AR) appearing for revenue, has no objection if the matter is remanded.

4. Considering the submission made by both the sides and perusal of the records. We find that the whole issue involved in the present case is that whether the appeal have availed the Cenvat Credit on the capital goods which were cleared as waste and scrap after prolonged use of the capital goods. At the time of adjudication the appellant could not submit the document to establish that they have not taken the Cenvat credit, however now learned Counsel has produced the Chartered Accountant Certificate issued by Shah & Thar LLP certifying that the capital goods which are cleared as waste and scrap on the same no credit was availed at the time of the receipt and installation thereof.

4.1 Accordingly, in our view, the matter needs to be re-considered by the adjudication authority after verifying the fact that whether the credit was taken or not on basis of the Chartered certificate produced by the appellant.

5. Therefore, the impugned order is set aside and appeal is allowed by way of remand to the adjudicating authority.

(Dictated & Pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(C.L. MAHAR)
MEMBER (TECHNICAL)

Prachi