

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

Appeal No. E/11409, 11413-11415/2018-SM

[Arising out of OIA-VAD-EXCUS-002-APP-868-2017-18 dated 16.02.2018 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I]
[Arising out of OIA-VAD-EXCUS-002-APP-866-2017-18 dated 16.02.2018 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I]
[Arising out of OIA-VAD-EXCUS-002-APP-861-2017-18 dated 16.02.2018 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I]
[Arising out of OIA-VAD-EXCUS-002-APP-863-2017-18 dated 16.02.2018 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I]

M/s Banco Products India Ltd

Appellant

Vs

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

Respondent

Represented by:

For Appellant: Sh. Shailesh Vyas (Advocate)

For Respondent: Shri S.N. Gohil (AR)

CORAM:

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

Date of Hearing/Decision: 01.01.2019

Final Order No. A / 10098-10101 /2019

Per: Ramesh Nair

The issue involved in the present case is that whether the appellant is entitled for cenvat credit in respect of service tax paid in outward transportation.

2. Sh. Shailesh Vyas Ld. Counsel appearing on behalf of the appellant submits that the sale is on FOR basis and freight is included in the assessable value on which excise duty was paid, therefore, as per the Board Circular No. 1065/4/2018-CE dated 08.06.2018, the appellants are entitled for the cenvat credit. He submits that since the Board Circular was not considered by the appellate authority and the factual position that whether the freight is included in the assessable value or not was also not verified, he request to remand the matter for re-consideration in the light of Board Circular as well as for verifying the facts.

3. Sh. S.N. Gohil Ld. Superintendent Commissioner (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order.

4. On careful consideration of the submissions made by both the sides and perusal of the records, I agree with the request of Ld. Counsel that since factual aspects has not been verified that whether the freight element is included in the assessable value or not. The matter needs to be re-considered, accordingly, I set aside the impugned orders and remand the matter to the original adjudicating authority for passing afresh order after considering the Board Circular and the facts regarding inclusion of freight in the assessable value.

(Dictated & pronounced in the open court)

(Ramesh Nair)
Member (Judicial)

Seema