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

REGIONAL BENCH- COURT NO. 3

Excise Appeal No. 11947 of 2015

(Arising out of OIA-VAD-EXCUS-001-APP-315/2015-16 Dated- 02/11/2015 passed by Commissioner of Central Excise, Customs and Service Tax-VADODARA-I)

Bodal Chemicals Ltd **........Appellant**
Unit-Vii, 795 To 803, 804, 807, 832, Main Road,
Padra, Dudhwada, Village-Karkhadi, Taluka-Padra,
Vadodara, Gujarat

VERSUS

C.C.E. & S.T.-Vadodara-i **........Respondent**
1st Floor...Central Excise Building,
Race Course Circle, Vadodara,
Gujarat-390007

APPEARANCE:
Shri. N.K. Tiwari, Consultant for the Appellant
Ms. Sunita Menon, Superintendent (AR) for the Respondent

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

Final Order No. 12389 /2024

DATE OF HEARING:14.10.2024
DATE OF DECISION:14.10.2024

C.L. MAHAR

Matter being remanded to the original adjudicating authority as a reference to the virus of paragraph 1(c) of the notification 41/2012-ST is pending before the Hon'ble Gujarat High Court in case of Kalpesh Corporation Ltd. vs. Union of India Special Civil Application No. 9381/2015. In the appellant's own case this Tribunal vide Final Order No. A/12114-12116/2018 dated 23 August, 2018, an passed following order:-

> *"On careful consideration of the submission made by both the sides, I find that the sole issue is that whether the appellant is entitled for rebate despite the provision of paragraph 1(c) of the notification 41/2012-ST. I find from the record that the vires of paragraph 1(c) was challenged before the Hon'ble Gujarat High Court in the case of Kalpesh Corporation Ltd. Special Civil Application no. 9381/2015. I am of the view that unless the on vires civil application is decided by the Hon'ble Gujarat High Court, the*

matter cannot be concluded. Therefore, in the interest of justice, I set aside the impugned order and remand the matter to the adjudicating authority who should pass a fresh order after the outcome of the SCA no. 9381/2015 in the case of Kalpesh Corporation (supra). Needless to say, the appellant should be given sufficient hearing before the passing of the fresh order. Appeals are disposed of by way of remand to the Adjudicating Authority.

02. Following the above decision, I remand back the matter to the original adjudicating authority and direct him to keep it pending, till the matter is decided by Hon'ble Gujarat High Court in above refund matter.

(Dictated & Pronounced in the open court)

(C.L. MAHAR)
MEMBER (TECHNICAL)

PRACHI