

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST ZONAL BENCH : AHMEDABAD**

REGIONAL BENCH : COURT NO - 1

Excise Appeal No. 12032 of 2018-SM

(Arising out of OIA no.- VAD-EXCUS-002-APP-078-2018-19 dated 31/05/2018 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-I

Gujarat Guardian Limited
Village-Kondh, Taluka-Valia,
Bharuch,, Gujarat

Appellant

-VERSUS-

C.C. E. & S.T. Vadodara-ii
1st Floor... Room No.101,
New Central Excise Building,
Vadodara, Gujarat-390023

Respondent

Appearance

Present For the Appellant : Shri S.J. Vyas, Advocate

Present For the Respondent: Shri L. Patra, Asst. Commr. (AR)

CORAM: HON'BLE MEMBER (TECHNICAL), MR. RAJU

FINAL ORDER NO. A/ 11822/ 2019

Date of Hearing: 13/09/2019

Date of Decision: 13/09/2019

RAJU

This appeal has been filed by M/s Gujarat Guardian against denial of Cenvat Credit.

2. Ld. Counsel for the appellant points out that they had availed manpower recruitment and supply services to get driver for operating the

ambulance in the factory premises. He argued that in terms of the Factories Act that they are required to maintain ambulance as their factory is quite distant from the main nearby city Ankleshwar. He argued that in these circumstances, these services of driver are absolutely essential for legal operation of the factory. He relied on the decision of the Tribunal in the case of M/s. Zuari Cement Ltd. vs. Commr. of GST & Central Excise Chennai North 2018 (10) TMI 691-CESTAT Chennai and in the case of Jaypee Sidhi Cement Plant v/s C.C.E. & S.T., Jabalpur- 2016 (7) TMI 348-CESTAT New Delhi.

3. Ld. AR relies on the impugned order.

4. I have gone into rival submissions. I find that the appellants have claimed that it is a legal requirement to run factory under Factories Act to maintain an ambulance for taking care of any miss-happenings in the factory. Consequently, he argued that they cannot run the factory without availing the services of a driver for the ambulance. It is only that in the case of M/s. Zuari Cement Ltd (supra) under similar circumstances hiring of male nurse was allowed. I find merit in the argument of the Ld. Counsel and consequently, the impugned order is set aside and appeal is allowed.

(Dictated and pronounced in the open court)

(Raju)
Member (Technical)

Diksha