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

REGIONAL BENCH- COURT NO. 2

Customs Appeal No. 10423 of 2016
(Arising out of OIA-AHM-EXCUS-001-APP-048-055-2015-16 Dated-28/01/2016 passed by Commissioner of Central Excise-AHMEDABAD-I)

Bodal Chemicals Ltd **.....Appellant**
Unit-iv, Plot No. 123, 124, Phase-i,
Gidc, Vatva, AHMEDABAD
GUJARAT

VERSUS

C.C.E.-Ahmedabad-i **.....Respondent**
C. Ex Bhavan, Nr Panjrapole & Polytechnic, Ambavadi,
Ahmedabad, Gujarat-380015

WITH

- **Excise Appeal No. 10424 of 2016 (Bodal Chemicals Ltd)**
- **Excise Appeal No. 10425 of 2016 (Bodal Chemicals Ltd)**
- **Excise Appeal No. 10426 of 2016 (Bodal Chemicals Ltd)**

(Arising out of OIA-AHM-EXCUS-001-APP-048-055-2015-16 Dated-28/01/2016 passed by Commissioner of Central Excise-AHMEDABAD-I)

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

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

Final Order No. 12508-12511 /2024

DATE OF HEARING:18.10.2024
DATE OF DECISION:18.10.2024

C.L. MAHAR

The brief facts of the matter are that the appellants are engaged in manufacture of dyes and intermediates falling under Chapter 32 and 29 of the first schedule to the Central Excise Tariff Act, 1985. The appellants have filed a rebate claim of 60,336/- in respect of the specified input services utilised in the manufactured goods which were exported in terms of the Notification No. 41/2012-ST dated 29 June, 2012. The Deputy Commissioner of Central Excise, rejected the refund claim of the appellant by invoking para 1(c) of the Notification No. 41/2012-ST dated 29.06.2012.

2. Learned Consultant appearing for the appellant submitted that the provisions of Notification No. 41/2012-ST are under challenge before the

Hon’ble High Court wherein the virus of the provision under para 1(c) is to be decided by the Hon’ble Gujarat High Court. It was further submitted that since the matter is pending for consideration before Gujarat High Court for final decision, the matter may be kept pending till the issue is decided. He has also drawn my attention to the Final Order No. 12114-12116/2018 dated 23.08.2018 of this Tribunal in the appellant’s own case wherein, the matter has been remanded back to the original adjudicating authority keeping in view the pending of same matter before the Hon’ble Gujarat High Court.

3. I have heard both the sides. I find that the issue whether the appellant is entitled for the rebate despite the provisions of the para 1(c) of the Notification No. 41/2012-ST dated 29 June, 2012, or not, i find that since, the virus of paragraph 1(c) were challenged before the Hon’ble Gujarat High Court in case of M/s. Kalpesh Corporation Ltd., and Special Civil Application No. 9381/2015 in same is issue pending for decision.

3.1 In view of the above stated facts, I am of the view that since the issue is still pending before the Hon’ble Gujarat High Court and matter cannot be concluded till that decision of Hon’ble High Court is pronounced. I therefore set aside the impugned order and remand the matter back to the original adjudicating authority for passing afresh order after outcome of Special Civil Application No. 9381/2015 in case of Kalpesh Corporation Ltd (Supra) which is pending before Hon’ble Gujarat High Court.

4. Appeals are disposed of by way or remand to the adjudicating authority.

(Operative portion of the order pronounced in the open Court)

(C.L. MAHAR)
MEMBER (TECHNICAL)

PRACHI