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

REGIONAL BENCH-COURT NO. 3

Excise Appeal No. 13141 of 2018 - DB

(Arising out of OIA-CCESA-SRT-APPEALS-PS-392-2018-19 dated 05/09/2018 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

N R Agarwal Industries Ltd **........Appellant**
Survey No. 69/1/p3,69/1/p/3/p1, 72/p3,
72/p4, 73/p1, 74/p2, 74/1p4, 76/2p1, 93/p2, 94/p2,
Kale Road, Village:angam & Sarigam
VALSAD, GUJARAT

VERSUS

Commissioner of C.E. & S.T.-Daman **......Respondent**
3RD FLOOR...ADARSH DHAM BUILDING, VAPI-DAMAN ROAD, VAPI
OPP.VAPI TOWN POLICE STATION,
VAPI, GUJARAT-396191

APPEARANCE:
Shri S. Suriyanarayan, Advocate, Appeared for the Appellant
Shri Rajesh K Agarwal, Superintendent (AR) Appeared for the Respondent

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

Final Order No.12525/2024

DATE OF HEARING: 27.06.2024
DATE OF DECISION: 25.10.2024

RAMESH NAIR

The issue involved in the present case is that whether time limit of 6 months/ 1 year prescribed for availing the Cenvat credit as per Notification No.21/2014- CE (NT) 11.07.2014 is applicable for admissibility of Cenvat credit to the appellant.

2. Shri S. Suriyanarayan Learned Counsel appearing on behalf of the appellant at the outset submits that almost in all the case the invoices on which the credit was taken belatedly were issued prior to the time limit prescribed under Rule 4 of Cenvat credit Rules. Moreover, he submits that the time limit is applicable only in respect of input and capital goods and not for input service. He placed reliance on the following judgments:-

- 2015(318) E.L.T. 240 (Kar.)-COMMR. OF C. EX. & S.T., BANGALORE Versus FOSROC CHEMICALS (INDIA) PVT. LTD

- 2013 (293) E.L.T. 119 (Tri.-Ahmd.)-ALEMBIC LTD. Versus COMMISSIONER OF C. EX., VADODARA
- 2009 (246) E.L.T. 364 (Tri. - Ahmd.)-BANNER PHARMA CAPS PVT. LTD. Versus COMMISSIONER OF C. EX., VAPI
- 2012 (284) E.L.T. 202 (Tri. Chennai)-COMMISSIONER OF CENTRAL EXCISE, CHENNAI-III Versus FORD INDIA LTD.

3. Shri Rajesh K Agarwal, Learned Superintendent (AR) appearing on behalf of the revenue, reiterates the findings of the impugned order.

4. On the careful consideration of the submissions made by both the sides and perusal of records, we find that the time limit of 6 months/ 1 year prescribed for taking the Cenvat credit is firstly applicable to the input and capital goods and not for input service. Secondly, even if the Cenvat credit was availed after 6 months/ 1year from the date of issue of invoices but the date of issue of the invoices is prior to the amendment of Notification No. 21/2014- CE (NT) whereby, the time limit was prescribed, the said amendment prescribing the time limit shall not apply in respect of the invoices issued prior to the amendment. However, this factual aspect needs to be verified and accordingly, the matter to the decided in denovo adjudication.

5. We therefore, set aside the impugned order and allow the appeal by way of remand to the adjudicating authority to verify the facts as discussed above and pass a denovo order.

(Pronounced in the open court on 25.10.2024)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Bharvi