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

REGIONAL BENCH- COURT NO. 3

Excise Appeal No. 637 of 2012

(Arising out of OIA-CS/32/SURAT-II/2011 Dated-30.04.2012 passed by Commissioner of Central Excise, Customs and Service Tax-SURAT-II)

MADURA COATS PRIVATE LTD **........Appellant**
LOGISTICS SECTION NO. 221/222,
GIDIC INDUSTRIAL ESTATE, PANOLI,
BHARUCH-GUJARAT

VERSUS

C.C.E. & S.T.-Surat-II **........Respondent**
NEW C.Ex BUILDING...OPP. GANDHI BAUG,
CHOWK BAZAR, SURAT, GUJARAT-395001

APPEARANCE:
Shri Dhaval Shah, Advocate for the Appellant
Shri Kalpesh P. Shah, (Superintendent) Authorised Representative for the Respondent

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

Final Order No. A/ 11249 /2022

DATE OF HEARING:11.10.2022
DATE OF DECISION: 20.10.2022

RAMESH NAIR

The issue involved in the present case is whether the cenvat credit demand made in terms of Rule 57(c) of Central Excise Rules, 1944 for the period August, 1996 to August 1997 is hit by limitation or otherwise.

2. Shri Dhaval Shah, learned counsel appearing on behalf of the appellant submits that in the present case, the Show Cause Notice dated 24.03.2001 was issued for the period August, 1996 to August 1997, whereas for the subsequent period 10 Show Cause Notices on the same facts and circumstances were issued. The facts of the case were clearly known to the department which is evident from the fact that periodical 10 show cause notices were issued and thereafter the show cause notice in the present case was issued for the period August, 1996 to August 1997 by invoking the extended period. In this fact, there is no suppression of fact on the part of the appellant, hence the show cause notice is time barred.

He further submits that in the appellant's own case the assessment was provisional that itself shows there is no suppression of fact. For this reason, also the extended period of limitation was wrongly invoked in issuance of the present show cause notice. In support of his submission he placed reliance on following judgements:

- Commissioner vs ITC Ltd. 2006 (203) ELT 532 (SC)
- Uniworth Textiles Ltd. vs CCE – Raipur 2013 (288) ELT 161 (SC)

3. Shri Kalpesh P. Shah, learned authorized representative appearing on behalf of the Revenue reiterates the findings of the impugned order.

4. I have carefully considered the submission made by both the sides and perused the records.

5. The limited issue to be decided in the present case is that whether the show cause notice issued invoking the extended period is hit by limitation or otherwise. From the fact which is not under dispute, it is clear that the present show cause notice was issued on 24.03.2001 for the period August, 1996 to August 1997, whereas before issuance of this show cause notice, 10 show cause notices were issued which were within time, therefore, the facts of the present case was clearly in the knowledge of the department. Moreover, the assessment of the appellant under Central Excise was also provisional. Accordingly, there is no suppression of fact on the part of the appellant. In such situation, the show cause notice could not have been issued invoking the extended period of limitation. Hence, I am of the clear view that the show cause notice is clearly time barred. On this ground alone, the impugned order is not sustainable. Hence the same is set aside. Appeal is allowed.

(Pronounced in the open court on 20.10.2022)

(RAMESH NAIR)
MEMBER (JUDICIAL)

Neha