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

REGIONAL BENCH- COURT NO.2

Excise Appeal No. 10721 of 2017

(Arising out of Order No. VAD-EXCUS-003-APP-448-2016-17 dated 20.12.2016 passed by Commissioner (Appeals)-Vadodara)

Gmm Pfaudler Ltd. **...Appellant**
V.U. Nagar, Karamsad, Anand
Sojitra Road, Anand-Gujarat

VERSUS

Commissioner of Central Excise
& Service Tax-Anand **...Respondent**
Office of the Commissioner, Central Excise,
Customs & Service Tax, Central Excise Building
Nr. Juna Dadar, Behind old Bus Depot Anand,
Gujarat - 388001

APPEARANCE:
Shri Amber Kumrawat, Advocate appeared for the Appellant
Shri Anand Kumar, Superintendent (AR) appeared for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. SOMESH ARORA

FINAL ORDER NO. 10033 /2025

DATE OF HEARING: 22.01.2025
DATE OF DECISION:22.01.2025

SOMESH ARORA

Learned Advocate for the appellant appears and states that the present one is a periodical Show Cause Notice for the period April 2015 to September 2015. He also points out that in their own case for the earlier period, the matter has been decided in their favour vide Final Order No. A/10872-10873/2019 dated 10.05.2019 and against vide Final Order No. A/11425/2019 dated 22.07.2019. The learned Authorised Representative while defending the order and reiterating the findings of the Learned Commissioner (Appeals) seeks to rely upon the decision of CCE & ST vs Ultratech Cement Ltd. as decided by Hon’ble Supreme Court reported in 2018 (9) GSTL 337 (SC) in which in relation to GTA services for goods transported from place of removal to buyer’s premises, it was held that from the place of removal, prior to amendment of 2008, Cenvat Credit was not permissible. The Learned Advocate for the party seeks to rely in rejoinder on the decision reported in 2019 (4) TMI 11-CESTAT Ahmedabad in the matter of M/s Salasar Copper vs Commissioner of Central Excise & Service Tax-

Daman in which inter-alia the Board's Circular No. 1065/4/2018-CE dated 08.06.2018 and the decision of Ultratech Cement Limited cited (supra) were also considered and the decision ultimately went in their favour.

2. Considered the rival submissions.

3. This court finds substance in decisions cited by Learned Advocate and finds that in para 4 of the decision of Salasar Copper (supra) following observations were made:

> "4. I find that the observations of the order-in-original that goods are sold on FOR basis has not been challenged and has not been upset by the impugned order. Ld. Counsel pointed that in the case of Sanghi Industries Limited vs. CCE, Kutch (Gandhidham) - 2019 (2) TMI 1488 - CESTAT Ahmedabad, in the similar circumstances, the benefit of Cenvat credit on GTA services was allowed. Similarly, in the case of Ultratech Cement Limited vs. CCE, Kutch (Gandhidham) - 2019 (2) TMI 1487 CESTAT Ahmedabad where there was no dispute for the sale being FOR basis, credit has been allowed. Also in terms of Board Circular No. 1065/4/2018-CX dated 08.06.2018, there is no dispute on benefit of Cenvat credit if the sale is on FOR basis."

In view of this position and the appellant's own case for the period prior to present period, the decision being in favour of the party, this court finds that the matter is no more res-integra and needs to be decided in favour of the appellant. Accordingly, the appeal succeeds and the impugned order is set aside with consequential relief.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

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