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

REGIONAL BENCH- COURT NO.3

Excise Appeal No.13790 of 2013

(Arising out of OIA-VAD-EXCUS-001-APP-301-13-14 dated 21/08/2013 passed by Commissioner of Central Excise, Customs and Service Tax-VADODARA-I)

Shreno Ltd **........Appellant**
(Glass Division) (Formerly Known As Alembic Glass Ind. Ltd), Alembic Road,
VADODARA, GUJARAT

VERSUS

C.C.E. & S.T.-Vadodara-i **.......Respondent**
1st Floor...Central Excise Building,
Race Course Circle,
Vadodara, Gujarat-390007

APPEARANCE:
Shri Saurabh Dixit, Advocate for the Appellant
Shri Rajesh Agarwal, Superintendent (AR) for the Respondent

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

Final Order No. A/ 10003 /2023

DATE OF HEARING: 20.12.2022
DATE OF DECISION: 04.01.2023

RAMESH NAIR

The short issue involved in the above appeal is whether the appellant is eligible to claim the refund of Central Excise Duty paid on the excisable goods cleared from the factory premises to depot on stock transfer basis, on appropriate duty payment, which were eventually given away as free unit discount alongwith other goods sold/discount given in cash at the time its sale from the depots. That it is not in dispute that the discount was pre-known and circulated and was actually offered in terms of the pre-existing discount scheme.

02. Shri Saurabh Dixit, learned counsel appearing on behalf of the appellant submits that the identical issue in the appellant's own case has been decided in their favour by this tribunal vide Final Order No. A/11658-11679/2019 dated 27.08.2019. He prays that following the very order, this appeal be allowed.

03. Shri Rajesh Agarwal, learned Superintendent (AR) appearing on behalf of the revenue reiterates the finding of the impugned order.

04. On careful consideration of the submission made by both the sides and perusal of records, we find that this issue has come up earlier in the appellant's own case in bunch of appeals, this tribunal vide Final Order No. A/11658-11679/2019 dated 27.08.2019 passed the following order:-

> *"4. We have carefully considered the submission made by both the sides and perused the records. We find that in the Show cause notice, the only charge made for disallowing the discounts is that the same was not claimed at the time of clearance from the factory in the invoice. There is no dispute that the appellant have pre-declared scheme of discount and the same was passed on only sale invoice issued from the depot. Therefore, the fact of the discount being passed on is not under dispute. In terms of section 4, the place of removal in case of depot is the depot from where the goods are sold and the transaction value at which the goods are sold from the depot shall be the assessable value. Therefore, the assessable value after deducting the discount is a credit transaction value and duty is payable. Therefore, wherever there is difference between the value charged for which clearance of goods from the factory and the sale price after discount from the depot on such value there is excise payment of duty and the appellant is entitled for the same. Accordingly, we set aside the impugned order and allow the appeals with a direction to the Adjudicating Authority to dispose of the refund claim in accordance with law."*

05. In the present case also, the fact is absolutely identical to the facts of the above decision therefore, the issue is no longer res-integra. Accordingly, we set aside the impugned order and allow the appeal with direction to the adjudicating authority to dispose of the refund claim in accordance with law.

(Pronounced in the open court on 04.01.2023)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Mehul