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

REGIONAL BENCH- COURT NO.1

**Excise Appeal No. 10250 of 2017**
(Arising out of Order No. AND-EXCUS-000-COM-014-015-16-17 dated 05.10.2016 passed by Commissioner of Central Excise & Service Tax- Anand)

**CGST & Central Excise-Vadodara-I** **...Appellant**
Central GST Building, Race Course Circle,
Vadodara-Gujarat-390007

*VERSUS*

**Bee Pee Coatings P Ltd.** **...Respondent**
Plot No. 443, Gidc, Vithal, Udyognagar,
Anand-Gujarat-388121

**APPEARANCE:**
Shri R.R. Kurup, Superintendent (AR) appeared for the Appellant
Shri Anand Nainawati, Advocate appeared for the Respondent

**CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)**
**HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER(TECHNICAL)**

**FINAL ORDER NO. 10536 /2025**

DATE OF HEARING: 01.07.2025
DATE OF DECISION:01.07.2025

**SOMESH ARORA:**

The Learned Advocate for the appellant states that the issue is no more res-integra and has already been decided in the departmental appeal in the matter of CGST vs Ravi Pharmaceuticals Private Limited Vide Final Order No. 12003 of 2024 decided on 19.09.2024. He states that the issue is identical as to whether the job worker is entitled to cenvat credit on the strength of bill of entry which is in the name of principal which bears declaration for the appellant to take the cenvat credit. The Learned advocate points out that in that decision, this matter has been decided in their favour and therefore, the same is no more res-integra.

2. Learned Authorised Representative confronted with the situation reiterated the findings of the lower authority.

3. We find that the matter stands covered by the aforesaid decision. The relevant para 4 is reproduced below:

> *"4.1 We find that there is no dispute that the appellant have received the input contained in bill of entry and used in the manufacture of excisable goods. The bill of entry is indeed a duty paying document since the appellant have used the material the bill of entry have been endorsed in their name and on that basis they*

*have availed the Cenvat credit. The revenue in their appeal made the following grounds:*

> *"5) On examination of the impugned order-in-original regarding its correctness and legality, in terms of section 35E of the Central Excise Act, 1944, the committee has noticed that the order of the adjudicating authority is not legal and proper to the extent of grounds mentioned below:*
>
> *(a) There was specific provisions for availment of MODVAT credit under Rule 57G of the Central Excise Rules, 1944 by endorsement of Bill of Entry. However, after the introduction of the Cenvat Credit Rules, 2004 governing the provisions relating to availment of Cenvat could be avaled have been specifically listed-out. While Bill of Entry is one such document on the basis of which Cenvat Credit could be availed, however, the said Rule 9 does not provide for endorsement of Bill of Entry for the availment of Cenvat credit, more so for the reason that such endorsement of Bill of Entry by Customs Officer has been discontinued vide Public Notice No.16/2006 dated 22.03.2006;*
>
> *(b) Proviso to Rule 9(2) stipulates certain mandatory details required on the Cenvatable documents. In the present case, in view of the fact endorsed Bill of Entry is not in the name of the assessee, and also it is not a valid document for availment of Cenvat Credit and hence Proviso to Rule 9(2) cannot be extended to the facts of the present case."*

*4.2 We find that the adjudicating authority has given elaborate finding based on various judgments however the same has not been rebutted by the revenue. The finding of the original adjudicating authority is reproduced below:*

> *"12) I have carefully gone through the present Show Cause Notice dated 08.10.2015, the defence reply and oral as well as additional written submissions made at the time of personal hearing.*
>
> *13) The assessee is a loan licensee engaged in manufacture of excisable goods viz. Patents and Proprietary (P and P) Medicines for M/s. Zydus Animal Health Lids Division of M/s Cadila Healthcare Limited). The required raw materials are procured and supplied by M/s Zydus Animal Health Ltd., Ahmedabad and the finished goods are sent back to M/s. Zydus Animal Health Ltd. on payment of duty.*
>
> *14) The issue to be decided in this case is whether the assessee is entitled to avail Cenvat Credit, on the strength of Bills of Entry which are in the name of M/s Zydus Animal Health Ltd. and the declaration given by M/s. Zydus Animal Health Ltd. which has been wrongly worded reflecting that the Cenvat credit is to be availed by M/s. Zydus Animal Health Ltd. and not by the assessee, is a valid document for the purpose of availing cenvat credit on the said bills of entry.*

*15) I find that in this case, the receipt of goods under the disputed Bills of Entry have been received by the assessee, which fact has not been disputed in the Show Cause Notice. The receipt of goods has also been properly accounted by the assessee in their factory premises as is confirmed by the Assistant Commissioner (Preventive) in the said Show Cause Notice. Also, the utilisation of said material in the manufacture of finished goods and its duty payment nature has never been disputed in the show cause notice. Therefore, the only allegation is that the Cenvat credit has been wrongly availed on the strength of Bills of Entry which are not in the name of the assessee and its respective declaration which is wrongly worded by M/s. Zydus Animal Health Ltd.*

*16) I find that in this case, the Notification No.8/2015-CE (N.T.) dated 01.03.2015 and the Circular No. 1003/10/2015-CX dated 05.05.2015 are not relevant to this case, as the importer Zydus Animal Health Ltd. is a loan licensee and the purchaser M/s. Ravi Pharmaceuticals Pvt. Ltd. is a job worker cum manufacturer of that loan licensee. Hence, no relation of importer and buyer is established between Zydus Animal Health Ltd. and the assessee, as is contained in the Notification / Circular.*

*17) Further, I would like to discuss the provisions of Rule 9 of the Cenvat Credit Rules, 2004 which reads as under:*

*"**Rule 9. Documents and accounts**. (1) The CENVAT credit shall be taken by the manufacturer or the provider of output service or input service distributor, as the case may be, on the basis of any of the following documents, namely:-*

*(a) an invoice issued by –*

*(i) a manufacturer for clearance of –*

*(I) inputs or capital goods from his factory or depot or from the premises of the consignment agent of the said manufacturer or from any other premises from where the goods are sold by or on behalf of the said manufacturer;*

*(II) inputs or capital goods as such,*

*(ii) an importer,*

*(iii) ….*

*(iv) A first stage dealer or a second stage dealer, as the case may be, in terms of the provisions of Central Excise Rules, 2002; or*

*(b)*

*(c)*

*(d) a bill of entry, or*

*(e)*

*(f)*

*(g)*

*(2) No CENVAT credit under sub-rule (1) shall be taken unless all the particulars as prescribed under the Central Excise Rules, 2002 or the Service Tax Rules, 1994, as the case may be, are contained in the said document:"*

*17.1) I find that the above provisions contained in Rule 9 of Cenvat Credit Rules, 2004 envisage that Cenvat credit shall be allowed on the documents prescribed therein and all the particulars as prescribed under the Central Excise Rules, 2002 should be incorporated in these documents. Here, the assessee has failed to follow the procedure and has not complied with the prescribed provisions of Rule 9 of the Cenvat Credit Rules, 2004.*

*18) However, I find that the issue in this case is squarely covered in the case against M/s. Eupec-Welspun Pipe Coatings India Ltd., reported in 2010 (260) ELT 381 (Guj.) wherein the Hon'ble High Court of Gujarat has held that separate certificate / declaration issued instead of endorsed Bill of Entry is to be considered as part of Bill of Entry and Cenvat Credit is admissible. Its relevant paras are reproduced below:*

> *"2. Heard, Ms. Amee Yajnik, learned Standing Counsel, appearing for the Revenue and perused the order of the CESTAT [2009 (235) ELT. 347 (Tri Ahmd.).). The CESTAT, in its order, has clearly observed after referring to Rule 9(2) of the Central Excise Rules (sic) that, credit shall not be denied on the ground that the document does not contain all the particulars required to be contained under these Rules if the document gives details of payment of duty or Service Tax, Description of the Goods, Assessable Value, Name and Address of the factory of the receiver.*
>
> *2.1 The Tribunal has further observed that according to proviso to Rule 9(2), the jurisdictional Assistant Commissioner can allow CENVAT Credit, if he is satisfied that the duty has been paid and goods have been actually used. The Tribunal found, as a matter of fact, that all these details are available except the name and the address of the factory on the bill of entry. The only omission was that instead of endorsing the bill of entry itself in name of the assessee, the importer has issued separate certificate/declaration. The Tribunal, therefore, took the view that the same has to be considered as part of the bill of entry and both of them cannot be segregated and seen in isolation as done by the Department. The Tribunal, on the basis of these materials on record, took the view that the credit has to be allowed in view of the provisions of Rule 9(2) of the Central Excise Rules (sic).*

*18.1) I find that the facts and circumstances of the above case and the case on hand are identical and hence the same is squarely applicable to this case. The Departmental Civil Appeal No. 10558/2010, against this judgement of High Court of Gujarat is dismissed by the Hon'ble Supreme Court on merits, which is reported in 2010 (260) ELT A83 (S.C.)*

*and the judgement of the Hon'ble Supreme Court has been accepted by the department.*

*19) Besides this, I find that in the following cases same view has been taken by various Courts regarding availment of Cenvat credit on Bills of Entry which are not in the name of the manufacturer and endorsed for the purpose of availing Cenvat Credit.*

*i) Union of India v/s. Marmagoa Steel Ltd. 2008 (229) E.L.T. 481 (SC) [Held that goods directly sent to manufacturer without its name on Bill of Entry and Cenvat credit allowed once established that goods received are duty paid and are used in the factory for manufacture of final product.*

*ii) Ingersoll Rand (1) Ltd. v/s. CCE-2006 (205) E.L.T. 937 (Tri-Mum.) Held that even when Bill of Entry is in the name of Head Office, Cenvat credit is admissible.*

*iii) Akzo Nobel Coating (India) Ltd. v/s CCE, Bangalore 2013 (290) E.L.T. 108 (Tri-Bang.) (Held that endorsed Bill of Entry is a valid document for availing Cenvat credit)*

*iv) Collector of Central Excise, New Delhi v/s. Bharat Wire Products – 1998 (99) E.L.T. 297 (Tribunal). [Held that endorsement of Bill of Entry does not change it duty paying character and Modvat Credit is admissible on the strength of endorsed Bill of Entry].*

*20) In view of the above judgments, I find that the issue involved in the case has been settled by decisions given by various Courts and hence, I am constrained to take similar view in the matter. It is a fact that the imported raw materials received in the job-worker's premises is properly accounted for and are used in the manufacture of dutiable final products, which has never been disputed. Therefore, I find that the assessee is eligible for Cenvat credit on imported inputs received from their principal under the cover of Bills of Entry, which has been used, in the manufacture of dutiable product. Hence there is no question of disallowing the said Cenvat credit, merely on a technical or a procedural lapse. In view of this, the demand for wrong availment of Cenvat Rules, 2004 raised in the show cause notice and the proposal to impose penalty on the assessee under Section 11AC of the Central Excise Act, 1944 read with Rule 15 of the Cenvat Credit Rules, 2004, cannot be sustained.*

*21) I, therefore, hold that no Cenvat credit is recoverable from the assessee, in respect of the goods received under various Bills of Entry accompanied by the declaration, and no penalty is imposable on them under the provisions of Central Excise Act, 1944 and the rules made thereunder. However, I hereby warn the assessee and direct them to follow the proper procedure for availing Cenvat Credit on imported raw materials."*

*4.3 In view of the above detailed finding we find that the grounds of appeal could not counter the said finding, hence bear no substance. The findings of the adjudicating authority based on the fact that this issue has been considered in various judgments as referred by the adjudicating authority therefore, we do not find any infirmity in the order of the adjudicating authority."*

4. In the instant case, we find that there is identical situation as the imported raw materials have been supplied to the job worker (appellant in this case) who has availed cenvat credit on the relevant bills of entries clearly incorporating declaration from the principal. We therefore, are convinced that the issue stands resolved and following the aforesaid decision, we reject the departmental appeal with consequential relief to the respondent.

(Dictated & Pronounced in the open court)

**(SOMESH ARORA)**
**MEMBER (JUDICIAL)**

**(SATENDRA VIKRAM SINGH)**
**MEMBER (TECHNICAL)**

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