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

REGIONAL BENCH- COURT NO.1

Excise Appeal No. 10079 of 2020

(Arising out of CCESA-SRT-APPEAL-PS-426-2019-20 dated 27.09.2019 passed by Commissioner CGST & Central Excise (Appeals), Surat)

M/s N R Agarwal Industries Ltd. **...Appellant**
Plot No. 169, 2nd Phase, Gidc, Vapi
Valsad, Gujarat-396155

VERSUS

CGST & Central Excise, Surat **...Respondent**
CGST & Central Excise Commissionerate Surat,
Central Excise Building, Chowk Bazar, Surat,
Gujarat-395001

APPEARANCE:
Shri S. Suriyanarayanan, Advocate appeared for the Appellant
Shri R. K. Agarwal, Superintendent (AR) appeared for the Respondent

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

FINAL ORDER NO. 10865 /2025

DATE OF HEARING: 30.10.2025
DATE OF DECISION:30.10.2025

SOMESH ARORA

The issue in this case pertains to refund claim of 1,78,833/- which was in balance with the assessee on the date of coming into force of GST Regime on 1st July 2017. The department is of the view that the same could not be allowed to them because of lack of specific mention in the GST Statute. At this stage, both sides agree that the matter is decided in favour of the assessee by plethora of case law. Learned Advocate was asked to indicate the most specific case, he seeks to rely on the decision of Nu Vista Limited vs Commissioner, reported at 2022 SCC Online CESTAT 852. In the decision rendered by the Principal Bench of this Tribunal, it has been concluded as under after going through the various judgments:

> "29. It needs to be noted that CENVAT credit availed is a vested right as has held by the Supreme Court in Eicher Motors and Samtel India.
>
> 30. The appellant is, therefore, clearly entitled to the refund of the balance amount of credit of cess and the decision to the contrary taken by the Commissioner (Appeals) cannot be sustained. The order dated 12.06.2019 passed by the Commissioner (Appeals) is, therefore, set aside and the appeal is allowed with consequential reliefs, if any."

2. In view of the foregoing, appeal is allowable. The same is allowed with consequential relief.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

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