IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. E/58810/2013-EX[DB]

(Arising out of Order-in-Appeal No. 44-CE/MRT-I/2013 dated 25/03/2013 passed by Commissioner of Central Excise & Customs (Appeals), Meerut-I)

M/s Gulshan Polyols Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Meerut-I **Respondent**

Appearance:

Absent on Call for Appellant
Shri Pawan Kumar Singh (Superintendent) AR for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 27/11/2018
Date of Decision : 27/11/2018

FINAL ORDER NO **72704 / 2018**

Per: Archana Wadhwa

Nobody appeared for the appellant. Accordingly we have heard the learned AR and have gone through the impugned order.

2. As per the facts on record appellants are engaged in the manufacture of coated and uncoated variety of 'Precipitated Calcium Carbonate' and were availing the benefit of Cenvat

Credit of duty paid on various inputs, inputs service and capital goods.

3. The dispute in the present appeal relates to legal issue as to whether the appellant is entitled to the Cenvat Credit of Service Tax paid on Outward Transportation of their final product i.e., from the place of removal to their customer's premises. The period involved is prior to March, 2008 when the definition of input services included the terms "from the place of removal". It is seen that the appellant were made to reverse the credit availed by them and they subsequently filed the refund claim of the said service tax, which stands rejected by the Lower Authorities on merits by observing that such outward transportation cannot be considered to be an input service.

4. We find that the issue is no more *res-integra* and stands settled by the Hon'ble Supreme Court's latest decision in the case of Commissioner of Central Excise, Belgaum vs. Vasavadatta Cements Ltd., reported at 2018 (11) G.S.T.L. 3 (S.C.) It stands held by the Hon'ble Supreme Court that such GTA Services utilized for outward transportation of the manufactured product would be cenvetable input services for the period pre 01.04.2008 when the expressions were changed to "upto the place of removal".

5. The legal issue stands decided in favour of the assessee. We further note that during adjudication the assessee was directed to avail the Cenvat Credit, which they reversed and subsequently claimed the refund of the same. As such we note that this is not a case of Ordinary Refund in terms of Section 11B of the Central Excise Act, requiring any examination of unjust enrichment angle. The same is only refund of the reversed credit entry, which they were made to debit during the course of investigation/adjudication. As we have already held in favour of the assessee they are entitled to avail the credit of the same in their cenvat credit account by reversing the debit entry, made by them.

6. The interest angle involved, if any, would be re-examined by the Lower Adjudicating Authority. Appeal is disposed of in above manner.

(Dictated and pronounced in Court)

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

Sd/-
(Archana Wadhwa)
Member (Judicial)

Ankit