

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 1960 of 2011

*(Arising out of Order-in-Appeal No.140/2010 dated
30.07.2010 passed by the Commissioner of Customs
(Appeals), Bangalore.)*

The Commissioner of

Customs

CR Building
Queens Road
Bangalore.

Appellant(s)

Versus

M/s. Jeans Knit (P) Ltd.

No.21-E1, 2nd Phase
Peenya Industrial Area
Bangalore - 560 058.

Respondent(s)

WITH

1. Customs Appeal No.1961 of 2011 (Commissioner of Customs, Bangalore vs. M/s. Jeans Knit (P) Ltd.)
2. Customs Appeal No.1962 of 2011 (Commissioner of Customs, Bangalore vs. M/s. Jeans Knit (P) Ltd.)
3. Customs Appeal No.1963 of 2011 (Commissioner of Customs, Bangalore vs. M/s. Jeans Knit (P) Ltd.)
4. Customs Appeal No.1964 of 2011 (Commissioner of Customs, Bangalore vs. M/s. Jeans Knit (P) Ltd.)

(All arising out of common Order-in-Appeal No.140/2010 dated 30.07.2010 passed by the Commissioner of Customs (Appeals), Bangalore.)

Appearance:

Mr. K. A. Jathin,
Dy. Commissioner (AR)

For the Appellant

Mr. N. Anand, Advocate

For the Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)

HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20859 to 20863 /2023

Date of Hearing: 23/06/2023

Date of Decision: 23/06/2023

Per : R. BHAGYA DEVI

M/s. Jeans Knit (P) Ltd., the respondent, is a 100% EOU engaged in the manufacture and export of readymade garment. They are entitled for CENVAT credit on inputs and service tax paid on input services in terms of various provisions of CENVAT Credit Rules, 2004. The refund claim was filed under Rule 5 of CENVAT Credit Rules, 2004 for the unutilised accumulated credit available in their books of accounts. The Original Authority has allowed such refund claims as eligible which has been upheld by the Commissioner (A) in the impugned order. The Department is in appeal only on the ground that inputs/input services do not qualify as used in or in relation to manufacture of final products in accordance with the definition of Rule 2 of CENVAT Credit Rules, 2004. The Authorised Representative reiterating the grounds of appeal submits that there is no nexus between the inputs / input services and the goods manufactured by the respondent. He requests the Bench to allow their appeals in view of the above submission.

2. On the other hand, the respondent submits that inputs/input services are used in or in relation to manufacture of final products which has been verified by the original authority and only after verification, the refunds were allowed. They also claimed that Commissioner (A) in the impugned order has

noted that similar orders allowing the refunds have been passed earlier and these orders have not been set aside, therefore, the respondents claim that the appeals should be rejected and the impugned order should be upheld.

3. Heard both sides. The limited issue to be decided in these appeals is as to whether the respondents are eligible for refund of unutilised accumulated credit. It is noted that the original authority listing the input services has clearly mentioned that the input services relating to import clearing charges, freight inward charges and import freight charges have been utilised by the respondent for receipt of raw materials which are in turn used for production of goods that are being exported. The repair and maintenance services are used for maintenance of machines used for production of export goods. Thus, each and every input services for which refund claim has been made, the original authority has verified the use of such input services and only after verification he has allowed the refund claims. Thereby the Commissioner (A) in his order considering this detailed verification by the original authority and also considering the fact that earlier similar orders allowing refund have not been set aside by any higher appellate forum, upholds the order of the original authority.

3.1 We also find that in the appeals filed by the Revenue, there is no iota of evidence to prove that these input services are not used in or in relation to the manufacture of goods being exported except for a statement that the input services are not

used in or in relation to the manufacture of final products in accordance with the provisions of CENVAT Credit Rules, 2004, as against a detailed order passed by the original authority giving reasons for allowing the same which has been upheld by the Commissioner (A).

4. We do not find any reason to set aside the impugned order. Accordingly, appeals are rejected and the impugned order is upheld.

(Order dictated and pronounced in Open Court.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

rv