CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL BANGALORE

Regional Bench - Court No. 2

Central Excise Appeal No. 20950 of 2014

(Arising out of Order-in-Appeal No. 36/2014-CE dated 31.01.2014 passed by the Commissioner of Central Excise (Appeals-I), Bangalore.)

Uday Computer Aided Manufacturing Pvt., Ltd.,
No. A-11/A-12, 1st Cross, 1st Stage,
Peenya Industrial Area,
Bangalore – 560 058. …….**Appellant**

VERSUS

Commissioner of Central Excise,
Bangalore II Commissionerate,
C.R. Building, Queens Road,
Bangalore – 560 001. ……..**Respondent**

Appearance:

Mr. H.Y. Raju, Advocate for the Appellant.
Mr. Rajesh Shastry, Authorised Representative (AR) for the Respondent.

Coram:

Hon'ble Mr. P.A. Augustian, Member (Judicial)

Hon'ble Mr. Pullela Nageswara Rao, Member (Technical)

Final Order No. 20373 /2025

Date of Hearing: 24.09.2024

Date of Decision: 21.03.2025

Per: P.A. Augustian

The issue involved in the present appeal is regarding refund claim of interest paid by the appellant.

2. The brief facts are the appellant is engaged in the manufacture of 'Rotary table' and was availing facility of cenvat credit under Cenvat

Credit Rules, 2004. They have manufactured the goods, and they are used within the factory of production and as per Notification No. 67/95-CE dated 16.03.1995, they are exempted from payment of Central Excise Duty. Since they paid excise duty on 01.03.2012, they have also paid Rs. 39,305/- as interest for eight months @18% on 11.04.2012. They have claimed the cenvat credit of above duty paid. As per the appellant on realizing the mistake, they filed a refund claim for Rs. 39,305/- which was wrongly paid as interest. A show-cause notice was issued for rejecting the claim on the ground that the veracity of the claim is questionable and there is no mention of payment of interest in ER-1 return for the month of April 2012. The Adjudication Authority as per the impugned order held that the benefit of the said exemption Notification, itself cannot be extended since they have not claimed the exemption at the time of clearance. As per the impugned order Adjudication Authority observed that the goods have been put to use from August 2011 onwards, but the duty on the same as been paid during March 2012 and subsequently benefit of Notification No. 67/95-CE dated 16.03.1995 as amended has also been claimed and to avail benefit of any Notification, same needs to be claimed at the time of clearance and not subsequent to clearance. Accordingly, it is held that the appellant is liable to pay duty on the date of capitalization of the capital goods. Aggrieved by said order, they have filed appeal before the Commissioner (Appeals) and Commissioner (Appeals) as per the impugned order rejected the appeal. Aggrieved by said order, present appeal is filed before the Tribunal.

3. When the appeal came up for hearing, the Learned Counsel for the appellant submits that the appellant is eligible for the interest since

it was paid by mistake. Learned Counsel further submits that the finding of the Adjudication Authority regarding delay in claiming the benefit of exemption Notification is unsustainable. Learned Counsel for the appellant draws our attention to the judgment of the Hon'ble Supreme Court in the matter of **M/s. Share Medical Care Vs. Union of India** reported in **2007 (209) E.L.T 321 (S.C),** wherein it is held that even if an assessee does not claim benefit under a particular notification at the initial stage, he is not debarred, prohibited or estopped from claiming such benefit at a later stage.

4. Learned Authorized Representative (AR) reiterated the finding in the impugned order.

5. Heard both sides and perused the records.

6. We find that it is an admitted fact that the appellant is eligible for claiming the benefit of Notification No. 67/95-CE dated 16.03.1995 and by mistake they have paid duty and availed cenvat credit of the same and the interest on the duty amount of Rs. 39,305/- was paid on 11.04.2012. When show cause notice was issued, it is alleged that the veracity of the claim is questionable and there is no mention of payment of interest in ER-1 return for the month of April 2012. However, while adjudicating the issue, Adjudication Authority had gone beyond the show cause notice and held that the appellant was not eligible to claim the benefit of Notification, itself. We have gone through the entire facts and found that the appellant had paid the interest by mistake and considering the law laydown by the Hon'ble Supreme Court in the matter of **Share Medical Care (supra),** appellant is not barred from claiming the benefit of exemption notification at a later stage. Thus, the appellant has rightly made a

claim for refund of interest amount which was paid by mistake and eligible for refund of the same. We find that the claim of the appellant is sustainable, hence the order is liable to the set aside and we do so.

7. Accordingly, the appeal is allowed with consequential relief, if any, in accordance with law.

(Order pronounced in Open Court on 21.03.2025)

(P.A.Augustian)
Member (Judicial)

(Pullela Nageswara Rao)
Member (Technical)

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