

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
BANGALORE**

Appeal(s) Involved:

E/1207/2010-DB

[Arising out of Order-in-Original No. 26/2010 dated
24/05/2010 passed by CCE, Bangalore-I]

ADCOCK INGRAM LTD

49 C & D, BOMMASANDRA INDUSTRIAL
AREA, ANEKAL TALUK, BANGALORE

Appellant(s)

Versus

**Commissioner of Central Excise ,
Customs and Service Tax
BANGALORE-I**

NULL POST BOX NO 5400...CR BUILDINGS,
BANGALORE, - 560001
KARNATAKA

Respondent(s)

Appearance:

Shri T.V. Ajayan, Advocate
Chander Kumar & Associate
504, 4th Floor, Oxford Tow
Bangalore - 560008
Karnataka

For the Appellant

Shri N. Jagadish, Superintendent(AR)

For the Respondent

Date of Hearing: 09/02/2018

Date of Decision: 09/02/2018

CORAM:

HON'BLE MR. S.S GARG, JUDICIAL MEMBER

HON'BLE MR. V. PADMANABHAN, TECHNICAL MEMBER

Final Order No. 20173 / 2018

Per : S.S GARG

The present appeal is directed against the impugned order dt.
24/05/2010 passed by the Commissioner whereby the Commissioner has
confirmed the demand along with interest and also imposed penalty under
Rule 15(2) of CENVAT Credit Rules.

2. Briefly the facts of the present case are that the appellant is a manufacturer of P&P medicaments falling under chapter heading 3003 of CETA, 1985. Appellant has manufactured P&P medicaments on loan licensee basis for M/s. Sanofi Synthelabo (India) Ltd. and has availed CENVAT credit of duty paid on inputs supplied by the said supplier in respect of the Bills of Entry No.360199 dt. 26/11/2007; No.509038 dt. 27/03/2008 and No.387405 dt. 18/12/2007 on which the goods were consigned. During the verification of the records, Revenue issued a show-cause notice alleging that the appellant has wrongly availed CENVAT credit on endorsed Bills of Entry consigned to M/s. Sanofi Synthelabo (India) Ltd.. After following the due process of law, the Commissioner confirmed the demands. Hence the present appeal.

3. Heard both sides and perused the records.

4. Learned counsel submitted that the impugned order is not sustainable in law as the same is passed by ignoring the judicial precedent. He further submitted that the issue involved in this present case is whether the credit availed on the endorsed Bills of Entry in respect of the imported goods cleared from Customs and directly shifted to the appellant's factory was tenable or not. He further submitted that this issue is no more res integra in view of the decision in the appellant's own case vide Final Orders No.21853/2014 dt. 07/10/2014 and No.21371/2017 dt. 04/08/2017. He

further submitted that this issue has also been settled by various decision in favour of the assessee by the following decisions:-

- i. CCE, Bhopal Vs. S.S. Cropcare Ltd. [2016(343) ELT 1087 (Tri. Del.)]
- ii. UOI Vs. Marmagoa Steel Ltd. [2008(229) ELT 481 (SC)]
- iii. Order-in-Appeal No.17/2012 dt. 31/01/2012.
- iv. Twenty First Century Printers Ltd. Vs. CCE, Surat-II [2009(234) ELT 277 (Tri. Ahmd.)]
- v. Vimal Enterprises Vs. UOI [2006(195) ELT 267 (Guj.)]
- vi. Bando India (P) Ltd. Vs. CCE, Delhi-III [2010(262) ELT 1103 (Tri. Del.)]

5. On the other hand, the learned AR reiterated the findings of the impugned order.

6. After considering the submissions made by both sides, we find that this issue is squarely covered in favour of the assessee by the decision in appellant's own case as also other decisions cited supra and by following the ratio of the said decisions, the appeal of the assessee is allowed by setting aside the impugned order, with consequential reliefs.

(Operative part of this order was pronounced in court
on conclusion of the hearing)

V. PADMANABHAN
TECHNICAL MEMBER

S.S GARG
JUDICIAL MEMBER

Raja...