CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

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REGIONAL BENCH – COURT NO. 1

Excise Appeal No. 60203 Of 2021

[Arising out of OIO-20-AC-CE-J-D-2017 dated 28/03/2021 passed by the Commissioner (Appeals) OF CENTRAL GOODS & SERVICE TAX-JAMMU & KASHMIR]

Accent Pharma **: Appellant (s)**
Epip Industrial Flats
Bari Brahmana, JAMMU
JAMMU & KASHMIR

Vs

CGST- Jammu **: Respondent (s)**
OB-32, RAIL HEAD COMPLEX, BAHU PLAZA,
JAMMU, JAMMU & KASHMIR, 180012

APPEARANCE:
Shri Gautam Cough, Advocate for the Appellant
Shri Bhasha Ram, Shri Rajesh Rai, Authorised Representative for the Respondent

CORAM : HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)

ORDER No.A/60862 / 2021

Date of Hearing:15.06.2021

Date of Decision:15.06.2021

Per : Mr. Ashok Jindal

The appellant is in appeal against the impugned order wherein credit has been denied to them on the premise as per Notification No.02/14-CE (N.T.) dt.20.1.2014, the appellant was not entitled to credit prior to the Notification No.01/10-CE dt.6.2.2010.

2. The facts of the case are that the appellant is located in the State of Jammu & Kashmir and availing the benefit of exemption Notification No.01/10-CE dt.6.2.2010. The appellant procured certain inputs and availed credit of duty paid on these inputs. The case of the
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Revenue is that during the relevant period i.e. May 2012 to January 2014, an assessee is not entitled to avail credit against the inputs issued by the units, who are availing exemption under Notification No.01/10-CE dt.6.2.2010 and after introduction of Notification No.02/14-CE (N.T.) dt.20.1.2014, the notification No.01/10-CE dt.6.2.2010 was amended thereafter the credit was available to the assessee. The matter was adjudicated, the credit availed by the appellant was denied. Against the said order, the appellant is before me.

3. Ld. Counsel for the appellant submits that the period involved in this case is May 2012 to January 2014 whereas the show cause notice has been issued on 02.06.2017 by invoking the extended period of limitation. He also submits that in the case of Dharampal Satyapal Limited vs. CCE, Noida-2017 (352) ELT 396 (Tri.-All.), the appellant is entitled to take credit on the inputs.

4. On the other hand, Ld.AR reiterated the findings of the Commissioner (Appeals) in the impugned order and submits that in cases of similarly placed assessee where the credit was allowed to them located in the State of Jammu & Kashmir, the appeals have been filed by the Revenue before the Commissioner (Appeals).

5. Heard the parties and considered the submissions.

6. Without going into the merits of the case, I find that similarly placed assessee was allowed the credit although against those orders, the appeals have been filed by the Revenue before the Commissioner (Appeals), in that circumstance, when the Revenue is having

divergent views on the issue, the extended period of limitation is not applicable. Admittedly, in this case, the show cause notice has been issued by invoking the extended period of limitation, therefore, I hold that the denial of credit is barred by limitation. Accordingly, the impugned order is set aside and the appeal is allowed with consequential relief, if any.

(Dictated & pronounced in the Court)

(Ashok Jindal)
MEMBER (JUDICIAL)

G.Y.