

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL,
SOUTH ZONAL BENCH, CHENNAI
COURT HALL No. III**

EXCISE APPEAL No.41651 OF 2014

(Arising out of Order-in-Appeal No.48/2014 (M-I) dt. 15.04.2014 passed by
Commissioner of Central Excise (Appeals), No.26/1, Mahatma Gandhi Marg,
Nungambakkam, Chennai 600 034)

M/s.Petro Araldite Private Limited

.... Appellant

Manali Express Highway,
Manali,
Chennai 600 068.

Versus

The Commissioner of GST & Central Excise,

...Respondent

Chennai Outer Commissionerate
Newry Towers, No.2054, I Block, II Avenue,
12th Main Road, Anna Nagar,
Chennai 600 040.

APPEARANCE :

Mr. A.S Harihara Kumar, Consultant
For the Appellant

Mr. Harendra Singh Pal, Assistant Commissioner (A.R)
For the Respondent

CORAM :

**HON'BLE MS. SULEKHA BEEVI.C.S., MEMBER (JUDICIAL)
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)**

DATE OF HEARING : 04.03.2024
DATE OF DECISION : 04.03.2024

FINAL ORDER No.40223/2024**ORDER : [Per Ms. Sulekha Beevi. C.S]**

Brief facts are that the appellant is engaged in manufacture of "Epoxy Resins and Hardeners" and holds Central Excise registration. During the course of verification of their records, it was noticed by the department that they have availed cenvat credit issued on invoices / debit notes issued by M/s.Tamil Nadu Petro Products Ltd. (TPL, for short) under Business Auxiliary Service (BAS). It was observed that there was no Effluent Treatment Plant available in the appellant's factory and the effluent water was sent to M/s.TPL for treatment and the treated water was let out into the sea and service charges for the effluent treatment was collected from the appellant under BAS. The appellant availed service tax credit on such service tax paid by them. On being pointed out, the appellant reversed the credit to the tune of Rs.60,61,438/- under protest; But, however, did not pay the appropriate interest on the same. Show cause notice dt. 5.6.2012 was issued to the appellant proposing to demand interest and for imposing penalty. After due process of law, the original authority confirmed the demand of interest of Rs.4,68,499/- and imposed penalty of Rs.60,61,438/-. Aggrieved by such order, the appellant is now before the Tribunal.

2. The Ld. Consultant Shri A.S. Harihara Kumar appeared and argued for the appellant. It is submitted that the appellant manufacturers Adhesives that use Epichlorohydrin (ECH) as critical raw material which is absorbed rapidly via the skin gastrointestinal tract, and in vapour form, via the lungs of human and animals. The Epichlorohydrin vapour is strongly irritating to the eyes and respiratory tract. Therefore, the appellant has to follow the effluent treatment norms in order to manufacture the said goods. As the appellant did not have the effluent treatment plant within the factory, had opted for taking the services of M/s.TPL. The sewage water / waste water was treated and let out and stored where it was treated. M/s.TPL collected service charges along with service tax and issued invoices / debit notes under the category of 'Business of Auxiliary Service'. The appellants having paid the service tax is eligible for credit.

3. It is submitted by the consultant that the department has denied the credit alleging that the activity of effluent treatment is a post-manufacturing activity and therefore not eligible for credit. The Commissioner (Appeals) has relied on the decision in the case of *Maruti Suzuki Ltd. Vs CCE Delhi - 2009 (240) ELT 641 (SC)*. The Ld. Consultant argued that the said case relates to the eligibility of inputs and not input services. There is no restriction that the input services should be availed within the factory. The decision in the case of *M/s.Cheminova India Ltd. Vs CCE & ST Surat* by Ahmedabad Bench of the Tribunal dt. 28.06.2023 vide Final Order No.A/11398-

11401/2023 was relied by the Ld. Consultant. He prayed that the appeal may be allowed.

4. Ld. A.R Shri Harendra Singh Pal appeared for the Department. Para-8 of the impugned order was adverted to by the Ld. A.R to argue that as per the decision in the case of *Marut Suzuki Ltd.* (supra) when the services are availed outside the factory, it is not eligible for credit. It is prayed that the appeal may be dismissed.

5. Heard both sides.

6. The issue is whether the appellant is eligible for the credit of service tax paid on charges collected for treatment by M/s.TPL. Undisputedly, the effluent treatment of the waste water (hazardous waste) is necessary in order to manufacture the goods. The appellant cannot continue manufacturing of the goods without taking steps for effluent treatment of the waste. The department has denied the credit alleging that the activity carried out by the appellant is an activity which is after the manufacture of goods. The decision of *Maruti Suzuki Ltd.* (supra) is with regard to the eligibility of credit availed on inputs and not on input services. It is not possible for the assessee to avail all types of input services within the factory premises. The decision of *Maruti Suzuki Ltd.* (supra) is not applicable to the facts of this case.

7. Moreover, the activity of waste water treatment is part of manufacturing activity and any activity which is directly or indirectly in relation to manufacture would be eligible for credit. We therefore find that the credit has been denied without valid reasons. We hold

that the appellant is eligible for credit. The impugned order disallowing the credit as well as confirming the demand and imposing penalty is set aside. In the result, the appeal is allowed with consequential relief, if any.

(Dictated and pronounced in court)

sd/-

(VASA SESHAGIRI RAO)
Member (Technical)

sd/-

(SULEKHA BEEVI. C.S)
Member (Judicial)

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