CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. IV

Excise Appeal No.41902 of 2014

(Arising out of Order-in-Appeal No.81/2014 dated 13.05.2014 passed by Commissioner (Appeals) Central Excise & Service Tax, Larger Taxpayer Unit, Chennai)

M/s. Shree Ambika Sugars Ltd., **.... Appellant**
Eraiyur, Pennadam,
Cuddalore District-606 111.

M/s. Shree Ambika Sugars Ltd.,
Kottur, Thuhili,
Thanjavur District-609804.

VERSUS

The Commissioner of GST & CE, **... Respondent**
No.1, Williams Road,
Cantonment,
Trichy-620 001.

APPEARANCE :

Ms. Nagasundari Shruti, Advocate for the Appellant
Ms. O.M. Reena, Authorized Representative for the Respondent

CORAM :

HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER No.40344/2025

DATE OF HEARING : 12.03.2025
DATE OF DECISION : 12.03.2025

Per SHRI K. Anpazhakan

M/s.Shree Ambika Sugars Ltd. (the appellant herein) has imported raw sugars through Jumbo Bags into the factory for refining and the bags are used for storing raw sugar. Accordingly, the appellant availed Cenvat credit on the duty paid on the Jumbo Bags. The department considered that the jumbo bags are not eligible inputs for availability of the credit and accordingly propose to denied the input credit availed by the appellant on the jumbo bags. Show Cause Notice has been issued to the appellant which resulted in Appellant No. 36, 37, 38 of 2011 dated 30.08.2011 wherein the Commissioner (Appeals) held that the jumbo bags are eligible inputs in the meantime the appellant has reversed the Cenvat credit availed them on the raw jumbo bags. Consequent to Appeal Nos. 36, 37, 38 dated 30.08.2011 the appellant filed refund claim of the Cenvat credit which has been reversed by them. The Ld. Adjudicating Authority has sanctioned the refund *vide* Order-in-Original No. LTUC/1511/12-AC (RF) dated 20.04.2012. Aggrieved against the sanction of refund Revenue filed an appeal before the Commissioner (Appeals) who allowed the appeal filed by the Revenue. Aggrieved against the impugned order passed by the Commissioner (Appeals) the appellant is before this Tribunal.

2. The Ld. Counsel appeared on behalf of the appellant submitted that the order in Appeal Nos.36,37,38 dated 30.08.2011 as categorically held that the appellant is eligible for availment of credit in respect of jumbo bags used for transporting and packaging the raw sugar. She submits that the said orders have been accepted by the department and no appeal have been filed thus these orders for attainting penalty the refund has been sanctioned as a consequences of these orders. Aggrieved they filed the refund claim which has

been sanctioned by the appropriate authority. She submits that without challenging the orders in Appeal Nos.36, 37, 38 dated 30.08.2011 department cannot question the sanction of refund which is a consequential refund arising out of orders in Appeal. Accordingly, she submits that the impugned order rejection the refund sanction is legally not sustainable.

3. The Ld. AR reiterated the findings in the Impugned Order.

4. Heard both sides and perused the documents.

5. I find that the appellant has availed Cenvat credit in respect of jumbo bags used for packaging and storing raw sugars in the factories. These jumbo bags are used in connection with the manufacturing activities and hence there are eligible to avail Cenvat credit as inputs as defined under Section 2(K) of the Cenvat Credit Rules, 2004. I find that the Ld. Commissioner (Appeals) by order in Appeal Nos.36, 37, 38 dated 30.08.2011 passed the order allowing Cenvat credit on the jumbo bags used by the appellant for storing the raw sugar. These orders have not been challenged by the department and have attained penalty the appellant has applied for refund as a consequences of these orders without challenging the order in Appeals no.36, 37, 38 dated 30.08.2011 the department cannot question the sanction of refund which is a consequence of these orders. Accordingly, I find that the Ld. Adjudicating Authority has rightly sanctioned the refund to the appellant. Thus I find that the impugned order rejecting the refund sanctioned by the appellant

vide Order-in-Original dated 20.04.2012 is legally not sustainable. And accordingly, I set aside the same.

6. In view of the above I set aside the impugned order and allow the appeal filed by the appellant with consequential relief if any, as per law.

(Order dictated and pronounced in the open court)

sd/-

(K. ANPAZHAKAN)
Member (Technical)

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