IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Decision: 25.4.2017

Appeal No. E/602/2012-SM & E/57650/2013-SM

(Arising out of Order-in-Appeal No. IND/CEX/000/APP/435/11 dated 17.11.2011 and IND-CEX-000-APP-18-13 dated 22.1.2013 passed by the Commissioner (Appeals), Customs & Central Excise, Indore)

M/s Grasim Industries Ltd. — Appellant

Vs.

CCE, Indore — Respondent

Appearance

Shri Dhruv Tiwari, Advocate - for the appellant

Shri G.R. Singh, DR - for the respondent
Shri K. Poddar, DR

CORAM: **Hon'ble Mr. Ashok K. Arya, Member (Technical)**

Final Order No. 53112-53113/2017

Per Ashok K. Arya :

The appellants M/s Grasim Industries Ltd. has filed these two appeals against Orders-in-Appeal Nos. 435 of 2011 dated 17.11.2011 and 18/2013 dated 22.1.2013, where period involved is October, 2009 to April, 2011. The appellant has been denied Cenvat credit of service tax paid on GTA service for outward transportation of goods till the premises of the customers.

2. The brief facts are that:

(i) The appellant is a manufacturer of various items like caustic soda, liquid chlorine etc. falling under Chapter 28 of First Schedule to

Central Excise Act, 1985. They are registered with the service tax department for several services including the Goods Transport Agency Service.

(ii) The appellant claimed to have paid service tax for GTA services for outward transportation of goods and they took Cenvat credit on said GTA service.

(iii) Revenue issued show cause notice for denial of Cenvat credit for service tax paid on GTA services mainly on the ground that GTA services have been used beyond the place of removal.

(iv) The impugned orders confirmed demand along with interest and penalties. Therefore, the appellant is in appeal against the respective Orders-in-Appeal.

3. With above background of facts, both the sides represented by ld. Counsels, Shri Dhruv Tiwari, Shri G.R. Singh and Shri K. Poddar have been heard.

4. After perusal of the facts and the submissions of both the sides, it appears that the impugned order is not clear on facts, if the transportation charges from the factory gate to the premises of the customer were actually borne by the appellant or their customers or not. In the Order-in-Appeal No. 435/2011 dated 17.11.2011 there

are contradictory observations in this regard. And in the case of Order-in-Appeal No. 18/2013 dated 22.1.2013, it appears that the appellant did not provide necessary documents like sales contract with buyers, invoices, financial account/statements to substantiate their claim that freight element was included in the assessable value and the subject sales were on FOR basis.

4.1 In both the appeals, therefore subject matter needs fresh examination at the level of original adjudicating authority, who shall adjudicate the matter de novo after giving necessary opportunity of personal hearing and the submissions of documents/evidence as admissible by law to the appellant.

5. In the result, the impugned orders are set aside. The matter is remanded for fresh adjudication to the original adjudicating authority and the appeals are allowed by way of remand in above terms.

(Dictated & pronounced in open Court)

(Ashok K. Arya)
Member (Technical)

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