IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-DB

COURT –I

Excise Appeal No. E/958/2012-[DB]

[Arising out of Order-in-Appeal No. 11/Commr./Cex/Ind/2012 dated 18.01.2012 passed by the Commissioner (Appeals-I), Raipur].

Teva Api India Ltd. …Appellant

Vs.

C.C.E. Indore … Respondent

Present for the Appellant: Mr. Hemant Bajaj (Advocate)
Present for the Respondent: Mrs. Suchitra Sharma, D.R.

Coram: HON'BLE JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE MR. V. PADMANBHAN, MEMBER (TECHNICAL)

Date of Hearing/Decision: 09/06/2017

FINAL ORDER NO. 53821 /2017

PER: JUSTICE (DR.) SATISH CHANDRA

The present appeal is against order in original No. 11/2012 dated 18.01.2012. The brief facts of the case are that during period (November 2009) the appellant was engaged in the manufacture of Active Pharmaceutical Ingredients (API) i.e. Bulk Drugs falling under Chapter 29 of the First Schedule of the Central Excise Tariff Act, 1985. The appellant was a 100% EOU. The appellant has two units at Malanpur and Gajraula. The Gas Induction Reactor was transferred (within 20 days) from Malanpur to Gajraula, and subsequently retransferred to Malanpur. The Department is of the view that the appellant acted in violation of the condition stipulated under Notification No. 22/2003. Hence, is liable to pay the duty of Rs. 80,340/-. Being aggrieved with the said order, the appellant has filed the present appeal.

2. With this background of the case, we have heard Sh. Hemant Bajaj and Mrs. Suchitra Sharma, the Ld. Counsels for the parties.

3. After hearing both the parties, it appears that the Gas Induction Reactor was utilized by the appellant during the period under consideration. It makes no difference whether it was used at Gajraula or Malanpur. The utilization is undisputed. Later, being a 100% EOU the goods were exported within a period of 9 months as per the requirement. When it is so than we are of the view that when the item Gas Induction Reactor was utilized, than there is no question of duty demand. It makes no difference in which unit it was utilized.

4. In view of the above, we set aside the impugned order and allow the appeal.

[Dictated and pronounced in the open Court]

(V. PADMANBHAN)
MEMBER (TECHNICAL)

(JUSTICE (DR.) SATISH CHANDRA)
PRESIDENT

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