CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing/decision: 06.06.2017

Appeal No. E/56248/2013-EX[DB]

[Arising out of the Order-in-Original No. CEX/103/2012 dated 30.11.2012, passed by the Commissioner of Central Excise, Raipur]

M/s. Vishnu Chemicals Ltd. … Appellant

Vs.

C.C.E. Raipur ... Respondent

Appearance:

Present Shri G.V. Reddy, Advocate for the appellant
Present Shri H.C. Saini, DR for the respondent

Coram: **Hon'ble Mr. Justice (Dr.) Satish Chandra, President**
Hon'ble Mr. V. Padmanabhan, Technical Member

FINAL ORDER No. 53858/2017

Per Justice (Dr.) Satish Chandra:

The present appeal is filed by the appellant against the impugned order number 103/2012 dated 30.11.2012 for the period 2006-07 financial year.

2. The appellant during the period under consideration was engaged in the manufacture of various chemicals. The returns were filed with the department but the audit raised an objection regarding the captive consumption pertaining to Bhilai unit of the assessee. The assessee has 4 units located at Bhilai, Kazipally &

Jeedimetla at Hyderabad and Vizag. In the impugned order, the adjudicating authority held that the quantity of consumption of input Sodium Bichromate arrived on the basis of ER-5 returns filed is only 5674.560 MT, whereas the balance sheet shows the use of 7229.020 MT. On being asked by the audit, the assessee replied that the difference is arising in their Hyderabad Unit. Finally the adjudicating authority confirmed the demand by treating the shortages as the suppressed production. Being aggrieved the appellant has filed the present appeal.

3. With this background, we have heard Shri G.V. Reddy, Advocate for the appellant and Shri H.C. Saini, DR for the respondent.

4. Heard both the sides and perused the record. The chemical sodium bichromate has been captively consumed in the various units for manufacture of other products. The balance sheet has been prepared by the appellant for all the four units. The audit objection has been raised on the basis of audit of only the Bhilai unit. It is the argument of the appellant that the input-output norms for consumption of sodium bichromate given in the ER-5 return is applicable only for Bhilai unit. In respect of other units, the input-output norms may be different. The Department has estimated the consumption of Sodium Bichromate during the year 2006-07 to be 5674.560 MT on the basis of ER-5 returns in respect of Bhilai unit. It has further been submitted that the captive consumption figure of 7229.0202 MT shown in the balance sheet is for all the units. It appears to us that the

adjudicating authority has projected the input-output norm of Bhilai unit for all the four units and came to the conclusion that appellant has suppressed production of final product and cleared it without payment of duty. It is seen from the record that the appellant has submitted the certificate signed by the Chartered Accountant indicating the captive consumption of sodium bichromate in all the four units adding upto the grand total of 7229.02 MT.

5. After considering above submission, it appears that there is some arithmetic error in computation of consumption of sodium bichromate.

6. When it is so, then we deem it fit to set aside the impugned order and remand the matter to the adjudicating authority to re-calculate the figure of all the four units with the ER-5 and decide the issue denovo and by providing reasonable opportunity to the appellant. In the result, appeal filed by the appellant is allowed by way of remand.

[Dictated and Pronounced in the open court]

(V. Padmanabhan)
Technical Member

(Justice Dr. Satish Chandra)
President

Bhanu