CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi.

Date of hearing/decision: 22.08. 2017

Excise Appeal No. 1516 of 2007 & 3293 of 2009 – SM
(Arising out of order-in-appeal No. 14-CE/MRT-II/2007 & 252-CE/MRT-II/2009 dt. 22.02.2007 & dt. 29.09.2009 passed by the Commissioner of Customs & Central Excise (Appeals) Meerut-II).

M/s Shree Shyam Pump & Board Mills Limited appellant

Vs.

CCE, Meerut-II Respondent

Appearance:

Ms. Sukriti Das, Advocate for the appellant
Sh. G. R. Singh, AR for the respondent

Coram:

Hon'ble Mr. Ashok Jindal, Member (Judicial)

Final Order No. 56246 – 56247/2017

Per: **Ashok Jindal**:

These appeals have been filed by the appellant on the ground that at the time of opting for exemption under Notification No. 50/2003 dated 10.06.2003 they were directed to reverse the Cenvat credit lying in the Cenvat credit account unutilized.

2. The appellant reverse the Cenvat credit at the time of opting Cenvat credit. But show cause notice was issued for reversal of Cenvat credit and appropriation thereof on inputs and capital goods. The adjudicating authority dropped the proceedings against the appellant. But, on appeal, ld. Commissioner (Appeals) set aside the adjudication order. Aggrieved from the said order, appellant is before me.

3. Further, as the adjudicating authority dropped the demand against the appellant for reversal of Cenvat credit lying unutilized at the time of opting for exemption under Notification No. 50/2003, the appellant filed refund claim and the said refund claim was rejected. Therefore, appellant is before me.

4. As the issue is common, therefore they are taken up together for final disposal.

5. After hearing both parties, I find that the issue has been settled by the decision of ***Uttarakhand High Court in the case of CC&CE, Meerut-I vs. APCO Pharma Ltd. - 2015 (319) ELT 641 (Uttarakhand***) wherein it was observed that the assessee is not required to reverse the unutlised cenvat credit at the time of opting exemption under Notification No. 50/2003. Therefore, I hold that appellant was not required to reverse Cenvat credit at the time of opting exemption under Notification No. 50/2003. Accordingly, the reversal made by the appellant is required to be refunded.

6. In that circumstances, both the appeals are allowed by setting aside the impugned orders.

(Dictated and pronounced in the open Court).

(Ashok Jindal)
Member (Judicial)

Pant